

AMENDED AGENDA #1
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Monday, January 14, 2019

SUBJECT	DESCRIPTION	PRESENTER
	General Organizational Committee Business	
INTRODUCTION	Introduction of New Committee Page, Chase Knott	Chairman Lakey
<u>DOCKET NO.</u> <u>61-0102-1801</u>	Rules Governing Uniform Data Reporting Requirements and Forms for Defending Attorney Annual Reports	Kathleen J. Elliott, Executive Director, Idaho State Public Defense Commission
<u>DOCKET NO.</u> <u>61-0103-1801</u>	Rules Governing Contracts and Core Requirements for Contracts Between Counties and Private Attorneys for the Provision of Indigent Defense Services	Kathleen J. Elliott, Executive Director, Idaho State Public Defense Commission
<u>DOCKET NO.</u> <u>61-0104-1801</u>	Rules Governing Procedures and Forms for the Application and Disbursement of Indigent Defense Grants	Kathleen J. Elliott, Executive Director, Idaho State Public Defense Commission
<u>DOCKET NO.</u> <u>61-0108-1801</u>	Rules Governing the Administration of Idaho's Indigent Defense Delivery Systems - Rule Definitions	Kathleen J. Elliott, Executive Director, Idaho State Public Defense Commission

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Lee

Sen Lodge

Sen Anthon

Sen Thayn

Sen Grow

Sen Cheatham

Sen Burgoyne

Sen Nye

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, January 14, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Lodge, Anthon, Thayn, Grow, Cheatham, Burgoyne, and Nye

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: Chairman Lakey called the Senate Judiciary and Rules Committee (Committee) meeting to order at 1:30 p.m.

INTRODUCTION: **Chairman Lakey** introduced Committee Page **Chase Knott**, who gave an overview of his school accomplishments, interests, family, and future plans, including his hobby as a beekeeper.

PASSED THE GAVEL: Chairman Lakey passed the gavel to Vice Chairman Lee.

DOCKET NO. 61-0102-1801 **Rules Governing Uniform Data Reporting Requirements and Forms for Defending Attorney Annual Reports.** **Kathleen Elliott**, Executive Director, Idaho State Public Defense Commission (ISPDC), explained that ISPDC recognized the importance of confidentiality between attorneys and clients which resulted in the proposed docket. One of ISPDC's missions is to protect and collect data responsibly and to use it as mandated.

DISCUSSION: **Chairman Lakey** expressed concern with the cumbersome nature of the application process and asked if counties expressed concern with the difficulty of tracking data. **Ms. Elliott** responded that counties had expressed concerns regarding data tracking. ISPDC was actively helping them formulate annual reports and reviews. The concern was that they may not be able to track that data under current accounting systems. The State has 44 accounting systems and consistency was a concern. She commented that the ISPDC encouraged people to participate and tried to provide the needed tools. **Chairman Lakey** stated that he had heard similar concerns from the counties. **Senator Burgoyne** asked when to anticipate further rule amendments pertaining to reporting requirements and when they could expect data needed for guidance in setting standards. **Ms. Elliott** stated if the case load standards were adopted, they anticipate it could take up to three years. Determining what counties and defending attorneys need is their mission. They requested, with the Governor's approval, a data analyst position for the commission. ISPDC worked to simplify forms and receive relevant data from commissioners and defense attorneys. It is still early in their process, and they plan to improve the system and gather more data.

MOTION: **Senator Burgoyne** moved to approve **Docket No. 61-0102-1801** with the exception of Subsection 010.37. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 61-0103-1801 **Rules Governing Contracts and Core Requirements for Contracts Between Counties and Private Attorneys for the Provision of Indigent Defense Services.** **Ms. Elliott** explained that ISPDC was mandated to provide rules for contracts between counties and public defense attorneys. Changes made to the rule reflected concerns that contracts should be enforced by ISPDC and not the contracting authority. She said ISPDC struck sections and certain terms were made discretionary to allow for negotiation. Another change was made at the request of stakeholders, requiring materials be provided by defending attorneys upon request.

DISCUSSION: **Senator Burgoyne** asked if there might be a beneficial effect in setting out the workload standards in the contracts. **Ms. Elliott** said each defending attorney was required to comply with the standards and there are consequences for noncompliance. She thought setting the standards in the contracts would bring clarity.

TESTIMONY: **Tom Arkoosh**, Idaho Association of Criminal Defense Lawyers, supported the notion of standards. Managing the standards was the next step.

MOTION: **Senator Anthon** moved to approve **Docket No. 61-0103-1801**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 61-0104-1801 **Rules Governing Procedures and Forms for the Application and Disbursement of Indigent Defense Grants.** **Ms. Elliott** explained that the ISPDC has appropriated funds to disburse among counties for compliance with indigent defense standards. Idaho Code mandated that counties apply for indigent defense grants and that the ISPDC must promulgate rules for the process. She said this rule sets forth the process and requirements for counties to apply for funds.

DISCUSSION: **Chairman Lakey** inquired further about the process. **Ms. Elliott** explained that they began to revamp grant applications and reached out for a representative group of clerks across the state to advise them. They needed to learn, be aware, and listen to what the 44 counties were dealing with; what they could provide the ISPDC and how to better obtain the information. They recognized the need for the information, however she believed there was a collaborative way to go about that.

MOTION: **Senator Thayn** moved to approve **Docket No. 61-0104-1801**. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 61-0108-1801 **Rules Governing the Administration of Idaho's Indigent Defense Delivery Systems - Rule Definitions.** **Ms. Elliott** said the rule intends to amend the standards for defending attorneys, provide work load standards, and ensure that defending attorneys are handling appropriate workloads. Multiple sections were revised which pertained to case load standards, including sections on how to calculate a case load for defending attorneys handling multiple types of cases. They made adjustments for more complex case loads and balanced them for the year.

DISCUSSION: **Senator Burgoyne** inquired if Ms. Elliott knew if the case load standards included in the 2018 version of Standards for Defending Attorneys would be constitutionally adequate. **Ms. Elliott** commented that she had spent more than 25 years as a criminal defense attorney and in her perspective she believed these were constitutionally sound and reasoned numeric case numbers. **Senator Anthon** asked if these guidelines would be restrictive to certain counties. **Ms. Elliott** indicated she heard and recognized potential impacts in rural and urban counties. Many were presently complying with the standards. Certain smaller counties expressed concern in obtaining defending attorneys and some urban counties would have trouble as well. Their goal was to use additional funds so that counties could comply with these standards. Compliance was dependent on State funding. **Senator Anthon** asked how the standards would adjust to rural areas so defenders

could take on diverse case loads. **Ms. Elliott** said they were testing a calculator to diversify workloads appropriately. Their intent was to recognize the limits and provide appropriate time to represent everyone. **Chairman Lakey** expressed concern with adopting the American Bar Association's (ABA) standards into Idaho Code. He asked if the guidelines come into play if numerical standards are not present. **Ms. Elliott** confirmed this and reported that Idaho was in the 200-case load range with no standards, similar to 30 other states. Six states use a weighted standard, and five others have standards near the 150 felony case load range.

Chairman Lakey asked about further research and the collection of the data. **Ms. Elliott** responded that the data tracking system was a voluntary effort. More than 150 Idaho attorneys voluntarily participated in the study, which included nine case types and 17 case tasks with no support staff. Tracking time took place over 12 weeks and was completed by Idaho public defense attorneys. Public defense attorneys had a 34 percent response rate to their study, with an average of 12 years of practice and 93 percent workload dedicated to indigent defense. The third part of the study was developed by the RAND Corporation, and one quarter of the attorneys participated in that three-part study. She said they would refine the data and evaluate the study further during the next three years.

Senator Burgoyne asked whether they had access to the necessary data that would allow them to improve, with respect to the study. He asked about follow up on the study's sustainability and if thought was given to the periodic nature of future studies. **Ms. Elliott** responded that they could provide counties with what they need. She thought their process would evolve into a very effective system of data collection. She could not say what future guidelines or designs would be, but the ISPDC would create a formulated response. The Idaho Policy Institute completed a study, and she thought it was comprehensive and impressive. **Senator Burgoyne** commented regarding a process of creating consistent data gathering systems.

Chairman Lakey asked if the budget request related to an increased grant funding level and if it was related to the standards. **Ms. Elliott** said that their request covered those costs and was recognized by both the Governor's office, the Department of Financial Management, and the Legislative Services Office. She said their request was adequate for now.

TESTIMONY:

Kathy Griesmyer, Policy Director, American Civil Liberties Union (ACLU) of Idaho, asked the Committee to reject subsection C of the Standards for Defending Attorneys - 2018 edition incorporated by reference in rule docket 61.01.08 - Rules Governing the Administration of Idaho's Indigent Defense Delivery Systems - Rules Definitions. She stated the ACLU believes that the current workload standard is ineffective and will continue to perpetuate excessively high case loads for defending attorneys, especially for indigents. She stated that since it was unknown how the Idaho Public Defense Commission weighed/prioritized the information used to create the proposed numerical standards, the recommendation was to remove the current workload standards under subsection C and rely on subsection B to utilize the previously established National Advisory Committee standards as a baseline. It is unclear how a defending attorney should make appropriate adjustments regarding their workloads if they are reaching the maximum. The process should be better defined. It has been suggested that attorneys decline or withdraw from cases when nearing the maximum standard. This would not solve the problem for indigent defendants. There was also a concern that the proposed workload standard is further complicated by an unclear funding structure for the PDC as outlined by the Governor's budget recommendation for the Commission. **Ms. Griesmyer** requested the Legislature to commit to taking the necessary steps to collect whatever additional data is needed for the creation of a sound Idaho

specific standard and to set a deadline by which such data will be collected and a viable workload standard published.

TESTIMONY: **Kelly Jennings**, Owyhee County Commissioner, expressed concern with the cost for public defenders and said there was a lack of consistency in the hiring process.

TESTIMONY: **Seth Grigg**, Executive Director of the Idaho Association of Counties (IAC), testified on initial standards adopted by ISPDC and its fiscal impact. He advocated for available funding to all counties to meet standards for employing additional attorneys. He noted that the State was responsible for funding public defense. He raised concerns over funding through tax levies to pay for public defenders. Counties would have to hire additional public defenders in order to be compliant with the standards.

Chairman Lakey asked Mr. Grigg how the implementation of caseload standards applies to the Capital Crimes Defense Fund. **Mr. Grigg** explained the purpose of the fund was to assist monetarily with capital crimes cases. Counties are provided funding if there's a capital case within their boundaries and for which hiring a second public defender is necessary.

MOTION: **Senator Burgoyne** moved to approve **Docket No. 61-0108-1801** with exception of Rule 004.02. The motion failed due to lack of a second.

MOTION: **Chairman Lakey** moved to approve **Docket No. 61-0108-1801**. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

DISCUSSION: **Chairman Lakey** agreed with Ms. Elliott and appreciated her work. He believed they were headed in the right direction and urged the committee to support counties with State funding.

Senator Burgoyne thanked the presenters and proclaimed his nay vote was not adamant but a concern towards how much is spent on litigation and the litigation's obscure consequences.

PASSED THE GAVEL: Vice Chairman Lee passed the gavel back to Chairman Lakey.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:59 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

Bryce DeLay
Assistant to the Secretary

AMENDED AGENDA #2
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Wednesday, January 16, 2019

SUBJECT	DESCRIPTION	PRESENTER
DOCKET NO. 11-0301-1801	Rules Governing Alcohol Testing	Major Charlie Spencer, Idaho State Police
GUBERNATORIAL APPOINTMENT HEARING	Committee Consideration of Dan Dinning Appointment to the State Public Defense Commission	Dan Dinning, Boundary County Commissioner
GUBERNATORIAL APPOINTMENT HEARING	Committee Consideration of the re-appointment of Eric D. Fredericksen as a State Appellate Public Defender	Eric Fredericksen, State Appellate Public Defender
GUBERNATORIAL APPOINTMENT HEARING	Committee Consideration of Brian C. Marx to the State Sexual Offender Management Board	Brian Marx, Attorney, Ada County Public Defenders
GUBERNATORIAL APPOINTMENT HEARING	Committee Consideration of Jonathan David Loschi to the State Public Defense Commission	Jonathan Loschi, Ada County Public Defender
<u>RS26446</u>	Relating to a new "Safe Harbor Provision" which provides protections for minor victims of human trafficking from criminal prosecution or juvenile proceedings for nonviolent offenses when committing the offense was a direct result of being a victim of human trafficking.	Eric D. Fredericksen, Idaho Criminal Justice Commission
<u>RS26466</u>	Relating to the establishment of the Blue Alert System in Idaho which provides for the dissemination of information about violent offenders who have killed, seriously injured, or pose an imminent and credible threat to law enforcement.	Sheldon Kelley, Idaho State Police
<u>RS26447</u>	Relating to human trafficking. Section 18-8601 emphasizes that human trafficking exists and the importance of training and awareness. Section 18-8602 adds language to provide law enforcement with guidance regarding what is considered human trafficking. Section 18-8603 makes human trafficking an independent criminal offense. Section 18-8605 will be removed entirely.	Eric D. Fredericksen, Idaho Criminal Justice Commission

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

Vice Chairman Lee
Sen Lodge
Sen Anthon
Sen Thayn

Sen Cheatham
Sen Burgoyne
Sen Nye

Room: WW48
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email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, January 16, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Lodge, Anthon, Thayn, Grow, Cheatham, Burgoyne, and Nye

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the Senate Judiciary and Rules Committee (Committee) to order at 1:32 p.m.

PASSED THE GAVEL: Chairman Lakey passed the gavel to Vice Chairman Lee.

DOCKET NO. 11-0301-1801 **Major Charlie Spencer**, Idaho State Police (ISP), explained the Idaho Forensic Services Laboratory had been working on this rule since the last legislative session and the changes were not quite ready. There were significant efforts invested with stakeholders to have everyone approve the changes. **Major Spencer** stated that breath alcohol instruments must be on the National Highway Traffic Safety Administration (NHTSA) register. ISP has no advance notification when these updates will occur to include Idaho. The amended rule approved last year is being extended to allow more time for the ISP to finish the process and will come before the Committee again next year.

MOTION: **Senator Anthon** moved to approve **Docket No.11-0301-1801**. **Senator Burgoyne** seconded the motion. The motion passed by **voice vote**.

PASSED THE GAVEL: Vice Chairman Lee passed the gavel back to Chairman Lakey.

GUBERNATORIAL APPOINTMENT HEARING: **Dan Dinning**, having been appointed to the State Public Defense Commission (Commission), was called and spoke to the Committee on speaker phone. **Mr. Dinning** stated that he was a life long Boundary County resident and took office as County Commissioner in 2001. He explained that he was involved with several local organizations and had been reelected to serve another four-year term as Commissioner. **Mr. Dinning** indicated that his interest in public defense was a result of the impact it has on small counties. He wants to help improve the process and be there to represent the small counties, and to a larger extent, the State in whatever changes are being made.

Senator Burgoyne and **Mr. Dinning** discussed how **Mr. Dinning** could be effective in helping to build a public defense system that would serve all of Idaho. They also discussed what improvements and challenges he would be focusing on.

GUBERNATORIAL APPOINTMENT HEARING: **Eric Fredericksen** having been re-appointed the State Appellate Public Defender, introduced himself and listed the various committees and commissions he has served on or is currently serving on. The focus of the Public Defenders Office is to provide constitutionally-sound representation for indigents on appeal. **Mr. Fredericksen** stated that two years ago the Legislature provided a retention plan to help retain attorneys employed by the Public Defenders office. Since that time they have not lost a single appellate attorney and have been able to attract very qualified capitol attorneys.

Mr. Fredericksen shared information regarding criminal activity in Idaho. He indicated there were a few more heroin cases, the same number of murder cases, and the number of capitol cases had risen slightly. There was an increase at the district court level but not as much at the appellate court level. **Senator Burgoyne** asked if there were areas where the Legislature could help with more funds. **Mr. Fredericksen** suggested that they needed more funds to retain support staff. Another area of concern was in reducing the case load of the trial level public defenders.

Senator Burgoyne was interested in what the demarcation line was between the state and local public defenders on handling appeals. **Mr. Fredericksen** explained the types of cases his office handled.

GUBERNATORIAL APPOINTMENT HEARING: **Brian Marx** having been appointed to the State Sexual Offender Management Board (Board) stated his experience. **Mr. Marx** Attorney, Ada County Public Defenders Office, indicated that he was a University of Idaho Law School graduate and had worked for 11 years for Ada County. He stated that he was looking forward to being a member of the Board.

Chairman Lakey questioned how the Board interacted with the other components of the criminal justice system. **Mr. Marx** explained that a representative from each group meets to provide a wide spectrum of perspectives and to determine how the rules are formed and what impact they had on those involved.

Vice Chairman Lee asked Mr. Marx what his experience could add to this position. **Mr. Marx** indicated that being able to see how evaluations are seen by the court and knowing how to present them to the court is an effective way his experience would be helpful. **Senator Burgoyne** and **Mr. Marx** discussed what Mr. Marx wanted to see accomplished during his tenure in this position. **Mr. Marx** indicated that one of the goals of the Board was to have certified, qualified people conduct evaluations and provide treatment. They also discussed Mr. Marx's opinion that the sex offense cases were the ones that carry a unique stigma because of the collateral consequences. He stated that discussing those concerns with the Board and finding resolutions were his goal.

GUBERNATORIAL APPOINTMENT HEARING: **Jonathan Loschi**, having been appointed to the State Public Defense Commission, indicated that his current employment is with the Ada County Public Defenders Office. He is the chief criminal deputy and is in his nineteenth year of employment there. He developed a passion for this type of work and his own ideas about how things should be done. One of his goals was to develop a cohesiveness with larger and smaller counties.

Senator Lee and **Mr. Loschi** discussed how vital it is to find out what the public defenders are doing so they can determine case load standards. **Senator Lakey** and **Mr. Loschi** briefly commented on the difficulty involved in the grant process. **Mr. Loschi** indicated that he would look into the possibility of making a model that would streamline the process making it easier for the smaller counties.

RS 26446

Eric Frederickson, Criminal Justice Commission (Commission), stated that the goal of the Commission was to get every entity that touches criminal justice issues in the same room at once to make mutually beneficial decisions. These entities need to be involved in determining the decisions made on evidence-based practices. With all entities involved it is possible to evaluate all concerns under every lens touched by these issues. **RS 26446** was created to identify and address the struggles of the victims of human trafficking. The rationale behind this legislation is to codify discretion of all prosecutors so when federal grants are being applied for, an affirmative defense can be given for all victims of human trafficking.

MOTION:

Senator Anthon moved to send **RS 26446** to print. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

Chairman Lakey suggested to Mr. Frederickson that on the actual hearing of the bill he may want to be prepared to expound on the application of the affirmative defense provision and how that process works.

RS 26466

Sheldon Kelley, Lieutenant Colonel, Idaho State Police (ISP) presented **RS 26466** relating to the Blue Alert System in Idaho. He indicated that the system is very similar to the Amber Alert System and is currently being used in over 30 states. It would be administered by the ISP.

MOTION:

Senator Cheatham moved to send **RS 26466** to print. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

RS 26447

Eric Frederickson, Idaho Criminal Justice Commission (Commission), indicated that he had chaired the subcommittee dealing with human trafficking legislation. They evaluated the current version of the statute and were proposing some minor changes. The first change acknowledges that human trafficking is an issue and that education is very important for law enforcement. The goal of this was to help officers identify when situations really are human trafficking. It also provided a definition for sex trafficking and commercial sexual activity. Another change would let human trafficking be a stand alone offense rather than an enhancement offense as it had been in the past.

MOTION:

Senator Lodge moved to send **RS 26447** to print. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:25 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

AGENDA
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Monday, January 21, 2019

SUBJECT	DESCRIPTION	PRESENTER
<u>RS26521</u>	Relating to the addition of employees of the Department of Parks and Recreation being added to legislation pertaining to assault or battery.	Senator Dan G. Johnson
VOTE ON GUBERNATORIAL APPOINTMENT	Committee Vote on Appointment of Dan Dinning to the State Public Defense Commission	
VOTE ON GUBERNATORIAL APPOINTMENT	Committee Vote on the Re-Appointment of Eric D. Fredericksen as a State Appellate Public Defender	
VOTE ON GUBERNATORIAL APPOINTMENT	Committee Vote on Appointment of Brian D. Marx to the State Sexual Offender Management Board	
VOTE ON GUBERNATORIAL APPOINTMENT	Committee Vote on Appointment of Jonathan David Loschi to the State Public Defense Commission	
GUBERNATORIAL APPOINTMENT HEARING	Committee Consideration of the Re-Appointment of Anna Jane Dressen to the Commission on Pardons and Parole	Anna "Janie" Dressen
GUBERNATORIAL APPOINTMENT HEARING	Committee Consideration of the Re-Appointment of Matthew Allen Thomas to the State Sexual Offender Management Board	Matthew Allen
PRESENTATION	"Courts 101"	Sarah B. Thomas, Administrative Director of the Courts, Idaho Supreme Court
PRESENTATION	Budget Overview	Paul Headlee, Division Manager, Idaho Legislative Services Office
PRESENTATION	Budget Requests relating to the Judicial Branch, Department of Corrections and Public Defense Commission	Jared Hoskins, Principal Budget & Policy Analyst, Idaho Legislative Services Office
<u>RS26534</u>	Relating to the clarification that the penalty provisions of I.C. § 18-2509 only apply to violations of the "preceding section." This section's overbroad reference to "this act" should specifically refer to the crime of aiding escape as set forth in I.C. § 18-2508.	Jason Spillman, Legal Counsel, Administrative Office of the Courts

<u>RS26535</u>	Relating to the language of I.C. § 5-509 which should be modified to clarify that the "order," and not the "clerk," directs the mailing of a copy of the summons and complaint to defendants with known addresses.	Jason Spillman, Legal Counsel, Administrative Office of the Courts
<u>RS26536</u>	Relating to parties' entitlement to both adequate trial and appellate processes. I.C. § 34-2127 should be amended to allow the Supreme Court to render a decision within ten (10) days of when the case becomes at issue.	Jason Spillman, Legal Counsel, Administrative Office of the Courts
<u>RS26537</u>	Relating to bail monies. Entry of an order withholding judgment should be added as a triggering event for applying remaining cash bail amounts to pay debts the defendant owes the court. Applying remaining bail monies to debts resulting from other "infraction" actions against the defendant should also be allowed.	Jason Spillman, Legal Counsel Administrative Office of the Courts
<u>RS26555</u>	Relating to the removal of confusion resulting from the conflicting statutory penalty ranges for juror contempt.	Jason Spillman, Legal Counsel Administrative Office of the Courts

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Lee

Sen Lodge

Sen Anthon

Sen Thayn

Sen Grow

Sen Cheatham

Sen Burgoyne

Sen Nye

COMMITTEE SECRETARY

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MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, January 21, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Lodge, Anthon, Thayn, Grow, Cheatham, Burgoyne, and Nye

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the Senate Judiciary & Rules Committee (Committee) to order at 1:30 p.m.

RS 26521 **Senator Dan G. Johnson**, State Senator for District 6, explained that **RS 26521** is a resolution pertaining to assault or battery upon employees of the Department of Parks and Recreation. This was a result of an incident where a misunderstanding of the law did not provide protection for an employee of the State.

MOTION: **Senator Anthon** moved to send **RS 26521** to print. **Senator Grow** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Burgoyne** moved to send the Gubernatorial appointment of Dan Dinning to the State Public Defense Commission to the floor with the recommendation that he be confirmed by the Senate. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL RE-APPOINTMENT VOTE: **Senator Lodge** moved to send the Gubernatorial re-appointment of Eric D. Fredericksen as State Appellate Public Defender to the floor with the recommendation that he be confirmed by the Senate. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE: **Vice Chairman Lee** moved to send the Gubernatorial appointment of Brian D. Marx to the State Sexual Offender Management Board with the recommendation that he be confirmed by the Senate. **Senator Grow** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Burgoyne** moved to send the Gubernatorial appointment of Jonathan David Loschi to the State Public Defense Commission with the recommendation that he be confirmed by the Senate. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL RE-APPOINTMENT HEARING: **Anna Jane Dressen**, under consideration for her re-appointment to the Commission of Pardons and Parole (Commission), introduced herself to the Committee. She stated that she was born and raised in Idaho, as were her children and grandchildren. **Ms. Dressen** served on the Commission for almost 19 years.

DISCUSSION:

Vice Chairman Lee asked what more the Senate body could do for the Commission. **Ms. Dressen** responded that they needed more resources within the communities which they serve. There has been an increasing number of parolees that need to be monitored. She also specified a great need for mental health services for parolees. **Senator Lakey** asked Ms. Dressen what she had seen change during her time at the Commission. **Ms. Dressen** indicated that now everything is done on computers; hearings are being done by teleconferencing and they are recorded. A major change has been the increase in case loads.

**GUBERNATORIAL
RE-APPOINTMENT
HEARING:**

Matthew Allen Thomas, under consideration for his re-appointment to the State Sexual Offender Management Board (Board), introduced himself to the Committee and indicated that he was currently serving as the Washington County Sheriff. He explained that he had served two years on the Board and had an enjoyable experience and looked forward to continuing his service.

DISCUSSION:

Vice Chairman Lee asked Sheriff Thomas what the Committee could either support or change to help him in his position. **Sheriff Thomas** responded by saying that the State needs to develop a "risk based" registry for sex offenders. The number of reoffenders is staggering, but there are people who have made one mistake and this registry follows them for the rest of their lives. **Senator Lakey** asked Mr. Thomas if there were any available models that would apply to Idaho. **Sheriff Thomas** responded that he believed Colorado had a program. They are currently focused on redoing the State's rules of treatment before getting to a "risk based" registry.

PRESENTATION:

Chairman Lakey introduced Sara Thomas, Administrative Director of the Courts, Idaho Supreme Court. **Ms. Thomas** explained Idaho's Judicial Branch was established by the Idaho Constitution. She indicated that the first responsibility of the Judicial Branch is the set up of the court system beginning with the Supreme Court. She explained the physical make up of the courts. The Idaho Judicial Council is an independent body established by statute and is responsible for sanctioning judges and the appointment process for district and appellate court positions. The recommended names are sent to the Governor who makes the appointment. The Supreme Court Chief Justice is elected by the other justices. **Ms. Thomas** explained the types of cases heard and not heard by the Supreme Court.

Ms. Thomas spoke briefly about Idaho's 45 District Courts. The Court of Appeals is a statutory court and has four judges who sit in three judge panels, making it possible to handle more cases at a time. They are elected in a contested election every six years. Vacancies are filled by utilizing the Idaho Judicial Council process. The Supreme Court can decide to send a case to the Idaho Court of Appeals for consideration. Idaho's district courts are trial courts and there are seven judicial districts set in Idaho statute. Judges are elected during the primary elections for four year terms. Each district judge has a resident chamber and must be a resident of that county. **Ms. Thomas** continued to explain the necessary qualifications to be considered for a judge. She indicated which cases the districts courts would hear, including any cases assigned to the magistrate division. The Legislature will provide each county a magistrate division if they desire one. They are appointed by the district's magistrate commission. She discussed the qualifications and types of cases these judges would hear. The magistrate judges are those involved in the "problem solving courts." They focus on high risk, high need individuals. They function in a team model including a judge, a treatment provider, a coordinator, and a probation officer. These courts exist in 34 counties. Idaho's participants in problem solving courts have a lower risk of recidivism than someone who is on regular probation or someone who actually goes to prison.

Ms. Thomas stated that court administration includes being responsible for adjudication and administration. This position was created by statute and includes helping the Idaho Supreme Court work through and complete its administrative duties. The divisions in her office include everything from business processes, to finances, to human resources. She is involved in the administration of the justice services division and the legal services division. There is an administrative district judge in each district to ensure the calendars throughout the districts are set and they make assignments regarding which cases will be heard by whom. They arrange for the drawing of juries, act as chairman of the magistrate commission, and appoint other court personnel. There are court reporters, district managers, guardianship monitors, and clerks elected in each county. When the district court staff is doing court business, they are answerable to the Idaho Supreme Court (see Attachment 1).

DISCUSSION:

Senator Grow asked about the fact that cities are mandated by the State to help pay for courthouse costs. **Ms. Thomas** stated that Idaho law dictates that court facilities are provided by the counties. The cities themselves pass ordinances and write tickets so they do drive part of the workload. Last year, legislation was passed to actually change how funding happens. A funding formula takes some of the money from the liquor fund that used to go to the cities and is now given to the counties for the purpose of supporting the magistrate courts.

PRESENTATION:

Chairman Lakey announced that Mr. Headlee was presenting in a House Committee and would make his presentation later in this meeting.

RS 26534

Jason Spillman, Legal Counsel, Administrative Office of the Courts, Idaho Supreme Court, stated that **RS 26534** sets forth several crimes related to the escape of prisoners or persons that are being housed in a public institution. Idaho Code § 18-2509 should specifically refer to the crime of aiding escape as set forth in Idaho Code § 18-2508.

MOTION:

Senator Burgoyne moved to send **RS 26534** to print. **Senator Grow** seconded the motion. The motion carried by **voice vote**.

PRESENTATION:

Paul Headlee, Division Manager, Budget and Policy Analysis, Legislative Services Office, stated that his goal was to help increase understanding and familiarity with the budgeting process used in Idaho. He indicated that he would cover a portion of the statewide level budgeting concepts and reports. The Budget Book is the document the Legislature uses for making budget decisions. A small portion has been attached (see Attachment 2). As shown on page 4, the budget process flowchart reflects stages of the process. He indicated that the agency request was on one side and the Governor's recommendation on the other side, making easy comparison. Page 5 reflects the six benchmarks that each budget passes through, beginning with the current year original appropriation and ending with the following year original appropriation. This model budget spans two different years and one of the best attributes of the model is the flexibility built in for legislators to make adjustments in the current year and going forward. **Mr. Headlee** continued his presentation with an explanation regarding the General Fund Summary for FY 2019 and FY 2020. The end result was a 6.8 percent increase to the General Fund in the Governor's proposed budget.

PRESENTATION: **Jared Hoskins**, Principal Budget & Policy Analyst, Idaho Legislative Services Office, began his presentation by giving a description of the Court Operations Division and indicated that this division is one of three budgeted divisions of the Judicial Branch. He stated that he would speak about the budgets of the three divisions (see Attachment 3). He pointed out that the FY 2020 request and FY 2020 Governor's Recommendation were very close. This is because, by statute, the Governor is required to transmit budget requests of the judicial branch and legislative branch as they were received. The differences are a result in a change in employee compensation benefits. **Senator Grow** asked if the executive budget was built around the amounts requested by these three divisions. **Mr. Hoskins** responded that those requests are built into the Governor's recommendation.

DISCUSSION: **Mr. Hoskins** discussed the Public Defense Commission historical operating budget summary. There was a discussion among Chairman Lakey, Senator Burgoyne and Mr. Hoskins concerning providing security to the Public Defense Commission's budget and if it was typical for a budget request to come from the dedicated fund. Mr. Hoskins stated that insecurity would result from the Commission having to ask for an increase from the dedicated fund annually. The ideal situation would be to have a general fund amount included in the base. He indicated that a dedicated revenue source had not been identified in the Governor's recommendation.

Mr. Hoskins stated that the Department of Corrections was another large agency requiring funding and budgeting. He indicated that there are supplemental requests built in between the original appropriation and the total appropriation to account for "population drive costs." These account for the fluctuating costs associated with the per diems for three different divisions. Those include the County and Out of State Placement, Correctional Alternative Placement, and Medical Services. **Mr. Hoskins** gave more detail regarding one time funding, inflationary adjustments and program maintenance costs. He stated that the Legislative Budget Book was available and has all the details included in the presentation.

RS 26535 **Jason Spillman**, Legal Counsel, Administrative Office of the Courts, Idaho Supreme Court, presented **RS 26535** and stated that in some circumstances, a court may be allowed to direct service of a summons via publication in a newspaper. Another section of Idaho Code states that one of the requirements is when a defendant's address is known, a copy of the summons must be mailed to that defendant. The current form of the statute confusingly requires that the clerk direct mailing of that, when it is the order that is issued by the judge that directs for such mailing.

MOTION: **Senator Lodge** moved to send **RS 26535** to print. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

RS 26536 **Mr. Spillman** presented **RS 26536**. He indicated that this RS deals with the appellate process for primary election contests. Currently, the statute states that the U.S. Supreme Court should render a decision in such cases within ten days of receipt of the appeal. This fix would state that the Supreme Court shall render decisions within ten days of the case becoming at issue. **Senator Burgoyne** commented that at the hearing for this RS, Mr. Spillman be prepared to discuss the deadlines that the Secretary of State and the county clerks have to meet for the general elections.

MOTION: **Senator Burgoyne** moved to send **RS 26536** to print. **Senator Grow** seconded the motion. The motion carried by **voice vote**.

RS 26537

Mr. Spillman presented **RS 26537**. He indicated that often after defendants are found guilty in their criminal case, they will have remaining cash bail that they have posted on deposit with the court. Those remaining monies can be applied to the defendant's other debts owed to the court. This RS would correct two oversights: entry of an order for withheld judgment should be added as a triggering event for applying remaining cash bail amounts to pay debts owed to the Court; and remaining bail monies may be applied to debts resulting from other "infraction" actions.

MOTION:

Senator Anthon moved to send **RS 26537** and **RS 26555** to print. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:56 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

Introduction to Idaho's Judicial Branch



Attachment 1

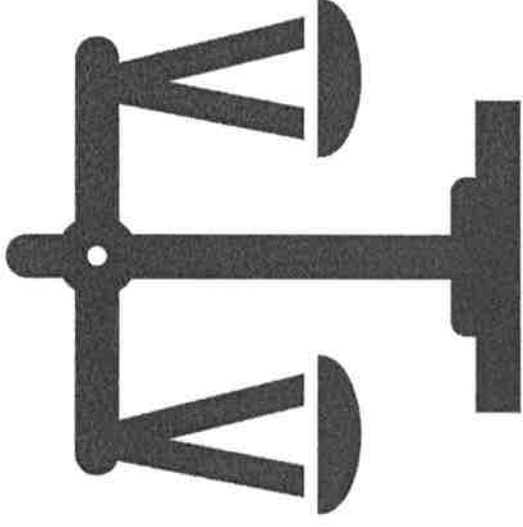
1-21-2019

Idaho Constitution

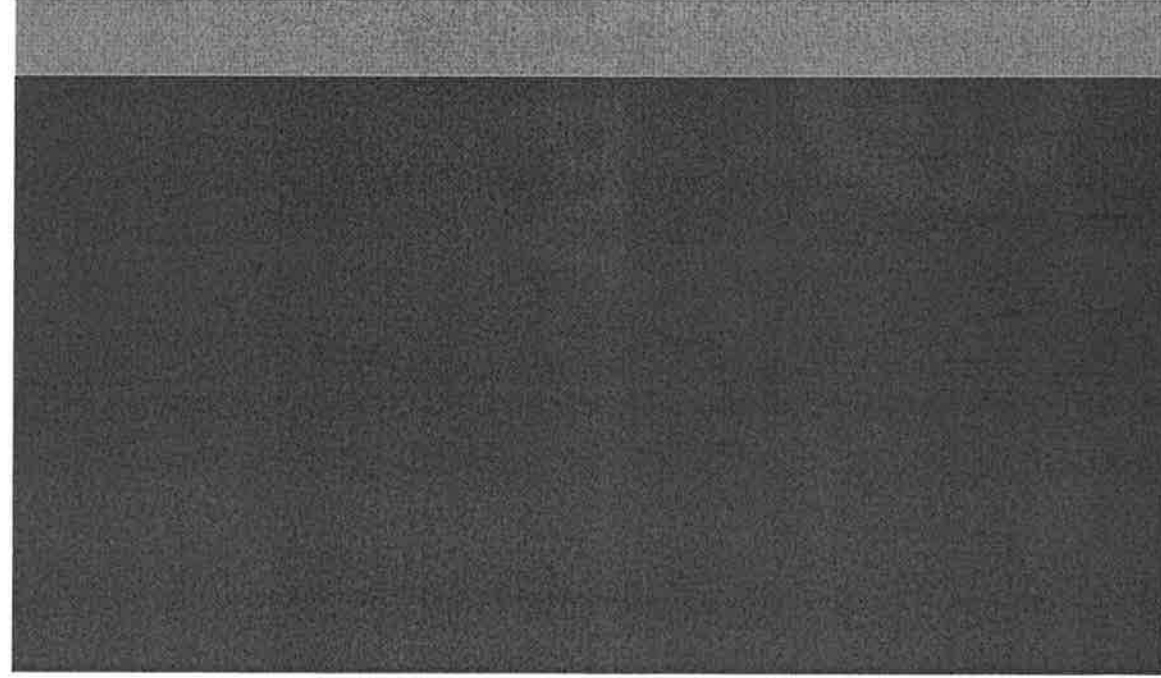
Article V, § 2

The judicial power of the state shall be vested in a court for the trial of impeachments, a Supreme Court, district courts, and such other courts inferior to the Supreme Court as established by the legislature....

The courts shall constitute a unified and integrated judicial system for administration and supervision by the Supreme Court....



Adjudication



Idaho Supreme Court

Art. V, § 6

- Five Justices, with a majority making a quorum for opinions
- The Justices are elected in statewide elections to a six-year term
 - If a vacancy occurs there is an appointment process in which the Idaho Judicial Council accepts applications, interviews candidates, and sends the Governor two to four names to choose from.
- The Chief Justice is elected by majority vote of the justices for a four year term. He is the executive head of the judicial system.

Supreme
Court
Jurisdiction

Art. V, §9

Original jurisdiction:

to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all writs necessary or proper to the complete exercise of its appellate jurisdiction.

Appellate Jurisdiction:

- any decision of the district courts, or the judges thereof,
- any order of the public utilities commission,
- any order of the industrial accident board,
- and any plan proposed by the commission for reapportionment created pursuant to section 2, article III;

Idaho Court of Appeals

I.C. §1-2406

Four Judges which sit in panels of three
Elected in statewide elections to a six-year
term

Vacancies filled the same way as Supreme
Court vacancies

Hears all cases assigned by the Supreme
Court

Cases which it cannot hear:

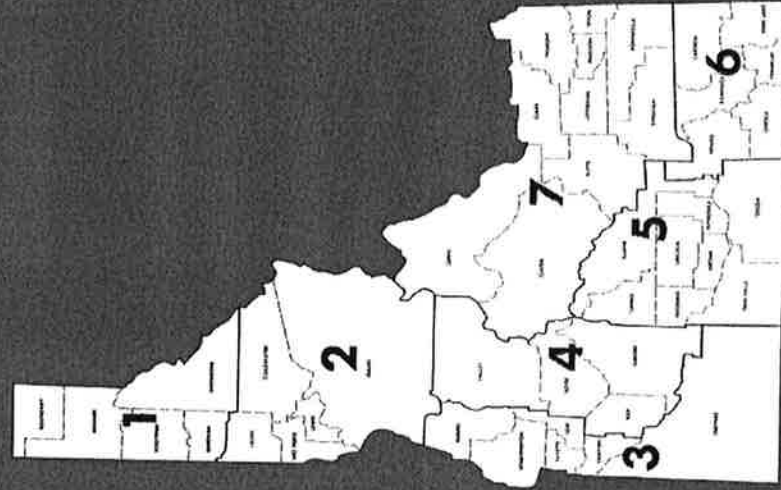
- Cases in which the Supreme Court has
original jurisdiction
- Capital cases
- Appeals from the Industrial
Commission
- Appeals from the Public Utilities
Commission

Idaho's District Courts

Number of judges per district is established by statute – Currently 45

Elected by electors of the district for a four-year term

Each district judge has resident chambers in a particular county as defined in statute and must actually reside in that county



District
Court
Jurisdiction

I.C. §1-705

Original Jurisdiction:

- All cases and proceedings
 - Typically all civil cases over \$10,000 and all felony criminal cases
- In the issuance of writs of mandamus, certiorari, prohibition, habeas corpus and all writs necessary to the exercise of its powers.

Appellate Jurisdiction:

- All cases assigned to magistrate's division of the district court; and to all other matters and cases wherein appeal is allowed by law.

Magistrate Division of the District Courts

Each county has a magistrate's division of the district court

Number of magistrates is determined by available funding – currently 93

Magistrates are appointed by the district's Magistrate Commission:

- County Commissioner from each county
- Mayors of three municipalities
- Two qualified electors
- Administrative District Judge
- Two attorneys
- One magistrate

Magistrates are subject to removal by a majority vote of the commission during the first eighteen months in office.

After the first eighteen months, magistrates are subject to a retention election by electors in their county every four years.

Magistrate Division Assignments

Types of cases typically assigned to magistrates:

- When damages or value of property at issue does not exceed \$10,000
- Probate of wills or administration of estates
- Misdemeanor and infractions
- Proceedings for warrants of arrest or search and seizure
- Preliminary hearings to determine probable cause in felony cases
- Family law – divorce, adoption
- Hospitalization of the mentally ill
- Proceedings under the Child Protection Act or Juvenile Corrections Act

Problem Solving Courts



Problem solving courts focus on **high risk, high need** individuals at risk of incarceration or the loss of parental rights.

Teams utilize **treatment, supervision, and accountability** to address behavioral health issues facing participants.

Exist in 34 Counties
62 Judges presiding

Types of Courts In Idaho:

30 Felony Drug Courts
12 Adult Mental Health Courts
2 Juvenile Mental Health Courts
5 Misdemeanor / DUI Courts
7 DUI Courts
5 Juvenile Drug Courts
6 Veterans' Treatment Courts
1 Domestic Violence Drug Court
1 Young Adult Drug Court
2 Child Protection Drug Courts



Court Administration



Administrative Office of the Courts

Administrative Director of
the Courts

Created by statute to
support the Idaho Supreme
Court in completing its
administrative duties

Appointed by the Supreme
Court and serve at the
Court's pleasure

- Court Management Division
 - Business Processes
 - Court Records Access
 - Data and Reporting
 - Education
- Finance and Operations Division
- Human Resources Division
- Information Division
- Justice Services Division
 - Problem Solving Courts
 - Children and Families in the Courts
- Legal Services

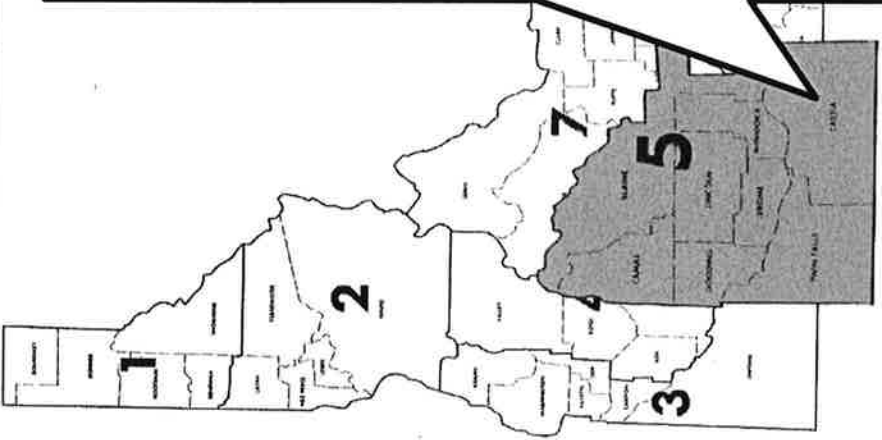


Administrative District Judge

- Elected by the District Judges of the district for a three year term
- Has administrative supervision and authority over the operation of the district courts and magistrates in the district
- Duties Include:
 - Arranging schedules and assigning judges
 - Supervising Calendars
 - Supervising clerks
 - Assigning matters to magistrates
 - Prescribing times and places at which magistrates shall be available
 - Arranging for the drawing of juries
 - Acting as chairman of the district Magistrate Commission
 - Appointing personnel to attend to the courts



Example: Idaho's 5th Judicial District



Administrative District Judge
Trial Court Administrator
Supreme Court Employees
Court Reporters
District Managers
Guardianship Monitors
Elected Clerks
District Court Staff
Deputy Clerks
Judicial Assistants
Coordinators



Contact Information:

Sara B. Thomas,
Administrative Director of the Courts
sthomas@idcourts.net
(208)334-2246



1-21-2019

First Regular Session, Sixty-Fifth Legislature

Idaho Legislative Budget Book For Fiscal Year 2020

This **Legislative Budget Book** is the primary reference document used by the Joint Senate Finance and House Appropriations Committee, in setting the Idaho State Budget. The publication is also available online at:

<https://legislature.idaho.gov/lso/bpa/pubs/>

Section I of this document contains statewide summary reports, charts, graphs and historical tables.

Section II provides a detailed description of agency budget requests for the Executive Branch, which includes twenty executive departments and the seven offices for statewide elected officials, the Judicial Branch and the Legislative Branch. Also included is the Governor's recommendation that provides the Legislature with a side-by-side comparison of each agency's budget request and the Governor's budget recommendation in a single, inclusive document. Policy oversight is emphasized in this document by grouping and displaying minor programs at the agency or divisional level, and clearly displaying and comparing the key policy budget decisions that need to be made. Detail objects of expenditures (personnel costs, operating expenditures, capital outlay, and trustee and benefit payments) are de-emphasized to allow the use of larger fonts with fewer pages.

Supporting Agency Profile Documents include other analyses intended to lend context to the discussion of each agency's budget.

A comprehensive database, and numerous working files, also support the information contained in this document. These enable the Legislature's Budget and Policy Analysis staff to provide an extensive amount of fiscal information to legislative leadership, members of JFAC, germane committees and the Legislature as a whole.

A Publication of the Legislative Services Office

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<https://legislature.idaho.gov/lso/bpa/>

Serving Idaho's Citizen Legislature

**Joint Senate Finance
House Appropriations Committee**



**FIRST REGULAR SESSION OF THE SIXTY-FIFTH
IDAHO LEGISLATURE**

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Dan Johnson (R) Vice-Chair, Lewiston	Wendy Horman (R) Vice-Chair, Idaho Falls
Abby Lee (R) Fruitland	Neil Anderson (R) Blackfoot
Jeff Agenbroad (R) Nampa	Clark Kauffman (R) Filer
Carl Crabtree (R) Grangeville	Caroline Troy (R) Genesee
Van T. Burtenshaw (R) Terreton	Paul Amador (R) Coeur d'Alene
C. Scott Grow (R) Eagle	Scott Syme (R) Caldwell
Jim Woodward (R) Sagle	Britt Raybould (R) Rexburg
Janie Ward-Engelking (D) Boise	Melissa Wintrow (D) Boise
Mark Nye (D) Pocatello	Sally Toone (D) Gooding

Committee Secretaries

Elaine Leedy	Senate Finance
Donna Warnock	House Appropriations

Budget and Policy Analysis
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Paul Headlee, Division Manager 334-4746

Legislative Branch

Keith Bybee, Deputy Division Manager 334-4739

Executive Office of the Governor, Division of Financial Management, Department of Commerce, Department of Revenue and Taxation, Department of Insurance, Department of Labor, Department of Finance, Workforce Development Council, Economic Outlook and Revenue Assessment Committee

Robyn Lockett, Principal Analyst 334-4745

Public School Support/Financing, Educational Services for the Deaf and Blind, Superintendent of Public Instruction, Division of Human Resources, Office of Information Technology Services, Change in Employee Compensation Committee

Jared Tatro, Principal Analyst 334-4740

Department of Health and Welfare, Catastrophic Health Care Program, Public Health Districts, Division of Veterans Services, Office of Drug Policy, Joint Millennium Fund Committee

Jared Hoskins, Principal Analyst 334-4743 ✖

Department of Correction, Board of Correction, Commission of Pardons and Parole, Department of Juvenile Corrections, Judicial Branch, Attorney General, Public Defense Commission, State Appellate Public Defender, Justice Reinvestment Oversight Committee

Rob Sepich, Senior Analyst 334-4742

Department of Environmental Quality, Department of Fish and Game, Department of Lands, Endowment Fund Investment Board, Department of Parks and Recreation, Lava Hot Springs, Department of Water Resources, Department of Agriculture, Soil and Water Conservation Commission, Office of Species Conservation, Wolf Depredation Control Board

Janet Jessup, Senior Analyst 334-4730

College and Universities, Agricultural Research and Extension, Health Education Programs, Special Programs, Community Colleges, Career Technical Education, Office of the State Board of Education, STEM Action Center

Christine Otto, Analyst 334-4732

Idaho Transportation Department, Idaho State Police, Regulatory Boards, Division of Building Safety, Military Division

Jill Randolph, Analyst 334-4749

Department of Administration, Permanent Building Fund, Capitol Commission, Idaho Public Television, Division of Vocational Rehabilitation, Arts Commission, Commission for the Blind and Visually Impaired, Commission on Aging, State Independent Living Council, Historical Society, Commission for Libraries, Commission on Hispanic Affairs

Maggie Smith, Analyst 334-4741

Lieutenant Governor, State Treasurer, Secretary of State, State Controller, State Liquor Division, Office of Energy and Mineral Resources, PERSI, Industrial Commission, Public Utilities Commission, State Lottery, Medical Boards

J. Shane Winslow, Data Systems Coordinator 334-4738

Lindsey Youtz, Administrative Assistant 334-3537

Idaho Legislative Budget Book

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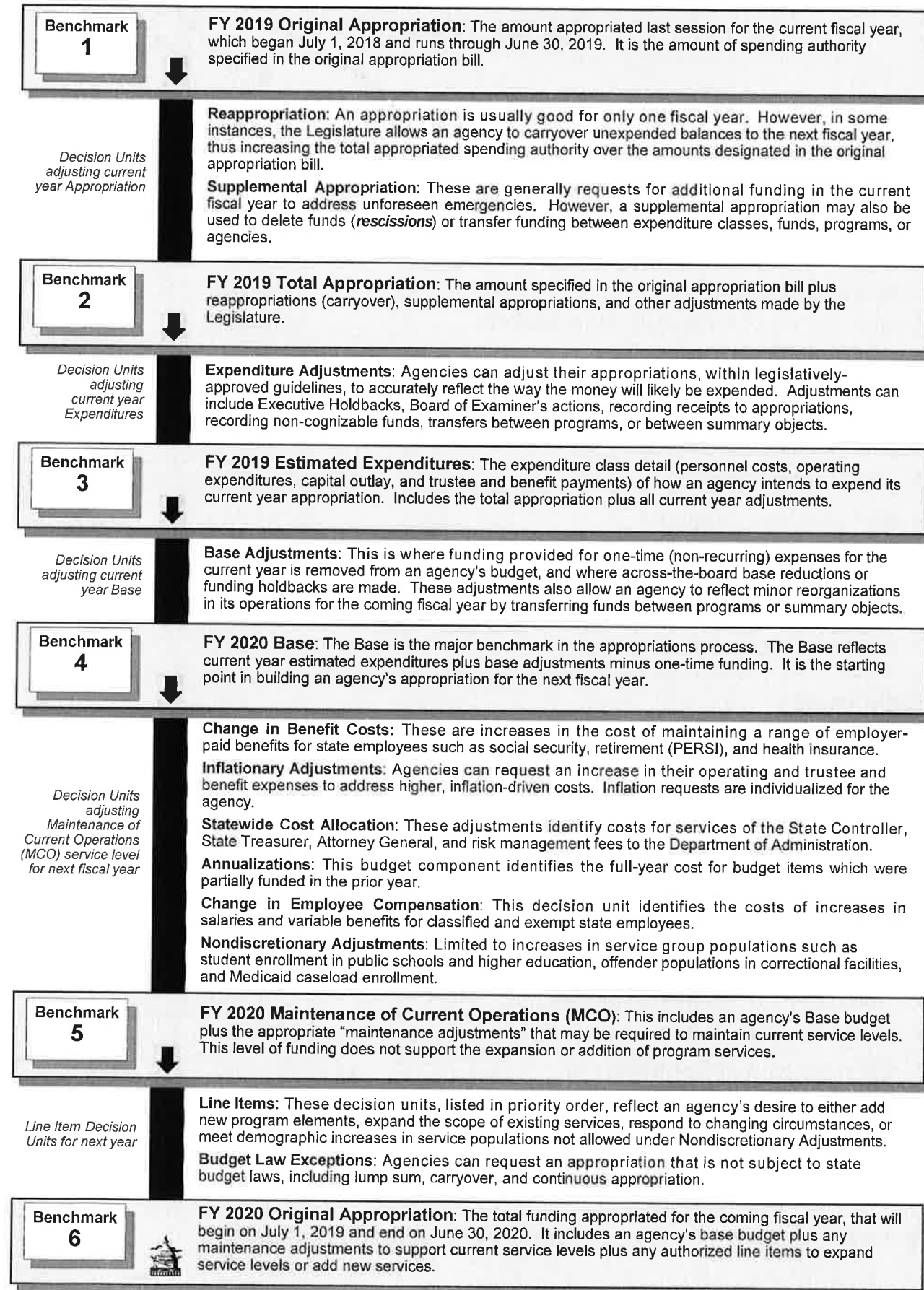
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The Idaho Decision Unit (DU) Budget Model



General Fund Summary

FISCAL YEAR 2020

REVENUES	Agency Request	Governor's Recommendation
1. Estimated Beginning Balance	\$97,647,500	\$97,647,500
2. DFM Orig Rev Est (8.2% increase from FY2019 forecast)	4,057,429,900	4,057,429,900
3. Legislation - Exempt Copies of Public Records from Sales Tax		(5,000)
4. Legislation - Annual Tax Conformity		(320,000)
5. Legislation - First-Time Homebuyers Savings Account		(4,650,600)
6. Total Revenues and Beginning Cash Balance	\$4,155,077,400	\$4,150,101,800
7. Transfer to Help America Vote Act (HAVA)		(161,500)
8. Transfer to Technology Infrastructure Stabilization Fund (TISF)		(14,713,500)
9. Transfer to Permanent Building Fund		(21,504,800)
10. Transfer to STEM Education Fund		(1,000,000)
11. Transfer to Wolf Control Board		(200,000)
12. Transfer to Public Defense Commission		(11,000,000)
13. Transfer to Police Officers Standards and Training Academy (POST) Fund		(1,030,800)
14. Transfer to Disaster Emergency Fund		(2,000,000)
15. Transfer to Public Education Stabilization Fund		(8,600,000)
16. Transfer to Fire Suppression Deficiency Fund		(20,000,000)
17. Sub-Total Transfers		(80,210,600)
18. NET REVENUES AVAILABLE (line 6 + 17)	\$4,155,077,400	\$4,069,891,200
EXPENDITURES		
19. FY 2020 Base Budget	3,675,253,800	3,670,198,400
Maintenance Costs:		
20. Benefit Changes	8,010,600	1,341,800
21. Inflationary Adjustments	2,411,700	951,600
22. Replacement Items	24,662,600	8,532,800
23. Statewide Cost Allocation	2,776,900	2,775,900
24. Annualizations	2,892,000	2,718,200
25. Change in Employee Compensation	7,021,900	20,476,200
26. Public Schools CEC Classified & Administrators	2,448,800	7,341,700
27. Military Compensation	61,700	0
28. Nondiscretionary Adjustments	129,998,200	128,887,600
29. Endowment Adjustments	(1,865,000)	(1,795,200)
30. FY 2020 Program Maintenance Subtotal	\$3,853,673,200	\$3,841,429,000
Line Item Requests (Less \$54.9M Cash Transfers to Ded. Funds)		
31. Education	\$90,668,200	\$37,053,200
32. Health and Human Services	28,810,600	12,813,600
33. Law and Justice	40,135,700	7,883,000
34. Natural Resources	1,928,700	1,744,600
35. Economic Development	7,650,600	(4,764,700)
36. General Government	5,898,300	1,169,400
37. Omnibus Decisions (Governor's Technology Initiatives)	0	(24,900)
38. FY 2020 Line Items (Less \$54.9M Transfers) Subtotal	\$175,092,100	\$55,874,200
39. FY 2020 Original Appropriation (line 30 + 38)	\$4,028,765,300	\$3,897,303,200
40. FY 2020 ESTIMATED ENDING BALANCE (line 18 - 39)	\$126,312,100	\$172,588,000
Percentage Increase Over FY 2019 Original Appropriation	10.3%	6.7%

Excess
Budget
Proposed

6.7% 6.8%
slight deviation
\$1.69M

General Fund Revenue Collections & Estimates

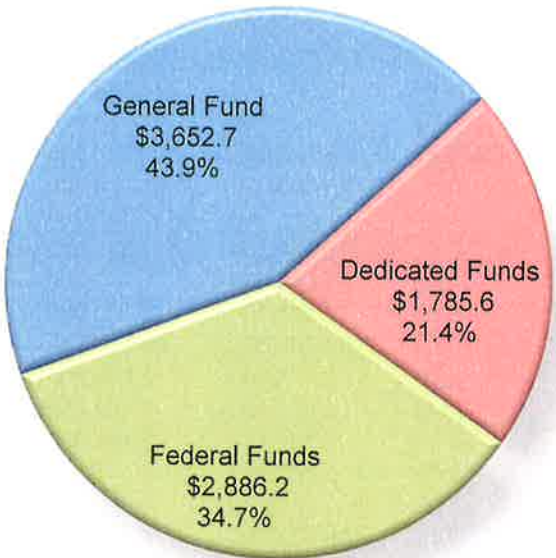
Source			Governor's Forecast	
	FY 2017	FY 2018	FY 2019	FY 2020
Individual Income Tax	\$1,651,196,217	\$1,828,281,687	\$1,773,800,300	\$1,954,258,600
% change	9.1%	10.7%	(3.0%)	10.2%
Corporate Income Tax	214,021,077	238,708,455	223,180,900	256,323,000
% change	14.5%	11.5%	(6.5%)	14.8%
Sales Tax	1,382,418,158	1,490,015,437	1,575,564,000	1,667,036,000
% change	6.1%	7.8%	5.7%	5.8%
Cigarette Tax	9,974,999	7,305,804	10,387,800	7,939,000
Tobacco Tax	12,651,918	13,253,406	14,176,600	14,581,400
Beer Tax	1,935,200	1,965,451	1,972,200	1,989,300
Wine Tax	4,651,593	4,814,685	5,043,100	5,323,800
Liquor Distribution	28,879,996	30,960,004	33,235,000	33,866,200
Product Taxes subtotal	58,093,706	58,299,350	64,814,700	63,699,700
% change	12.1%	0.4%	11.2%	(1.7%)
Kilowatt-Hour Tax	2,107,504	2,592,173	2,200,000	2,000,000
Mine License	50,048	24,247	100,000	125,000
State Treasurer Int.	(147,382)	4,654,493	6,389,000	12,389,800
Judicial Branch	8,443,898	9,183,950	7,851,600	7,885,800
Insurance Prem. Tax	75,423,198	70,485,925	67,885,500	68,416,500
State Police	297,753	(270)	0	0
Secretary of State	2,926,547	3,483,937	3,684,400	3,884,900
Unclaimed Property	10,369,301	8,506,529	9,000,000	9,000,000
Estate Tax	0	0	0	0
Other	43,263,563	17,370,441	15,850,200	12,410,700
Misc. Revenue Subtotal	142,734,430	116,301,425	112,960,700	116,112,700
% change	10.8%	(18.5%)	(2.9%)	2.8%
Total General Fund Collections	\$3,448,463,600	\$3,731,606,400	*\$3,750,320,500	*\$4,057,429,900
% change	8.3%	8.2%	0.5%	8.2%
Expenditures	3,260,075,300	3,469,405,300	3,691,098,700	3,897,303,200
% change	7.9%	6.4%	6.4%	5.6%
Collections-Expenditures	188,388,300	262,201,100	59,221,800	160,126,700
Beginning Balance:	76,573,600	109,420,900	127,166,900	97,647,500
Net Transfers In (Out):	(155,496,100)	(253,263,700)	(88,741,200)	(80,210,600)
Adjustments:	(48,000)	0	0	(4,975,600)
Total Ending Balance	109,417,800	118,358,300	\$97,647,500	\$172,588,000

*Total Collections Forecasts are rounded

FY 2019 All Appropriations by Fund & Function

"Where the money comes from . . ."

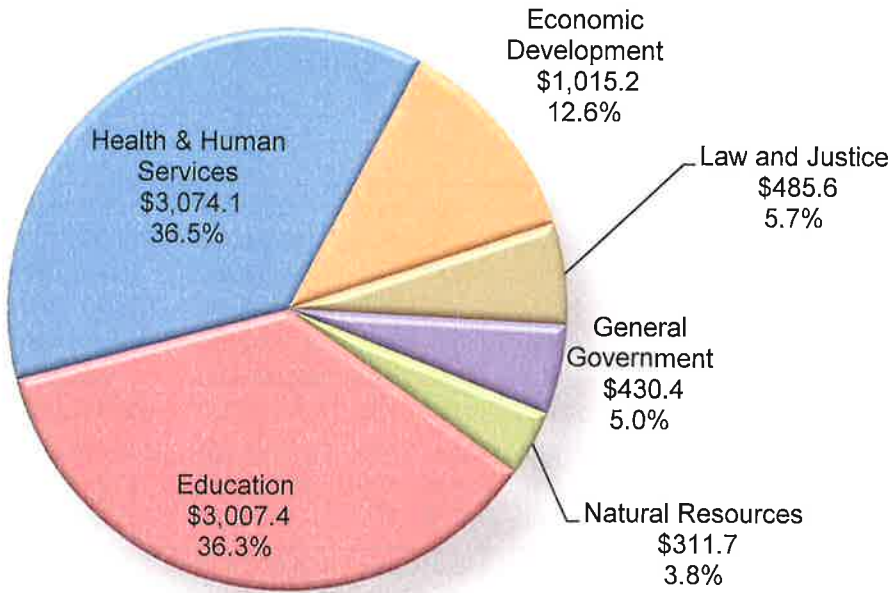
Dollars In Millions (Percent of Revenue)



Appropriations by Fund = \$8,324.5

"Where the money goes . . ."

Dollars In Millions (Percent of Appropriations)



Appropriations by Function = \$8,324.5

FY 2020 Governor's Rec by Decision Unit

Decision Unit	FTP	Gen	Ded	Fed	Total
FY 2019 Original Appropriation	19,599.87	3,652,724,800	1,785,577,000	2,886,212,500	8,324,514,300
Reappropriation	0.00	2,758,100	492,509,600	155,610,400	650,878,100
Supplementals	9.75	35,723,600	23,328,800	151,292,100	210,344,500
Rescissions	0.00	(107,800)	0	(267,200)	(375,000)
Deficiency Warrants	0.00	167,000	0	0	167,000
Cash Transfers & Adjustments	0.00	(167,000)	0	0	(167,000)
FY 2019 Total Appropriation	19,609.62	3,691,098,700	2,301,415,400	3,192,847,800	9,185,361,900
Noncognizable Funds and Transfers	104.97	0	23,934,500	57,707,400	81,641,900
Expenditure Adjustments	0.00	0	(4,453,800)	0	(4,453,800)
FY 2019 Estimated Expenditures	19,714.59	3,691,098,700	2,320,896,100	3,250,555,200	9,262,550,000
Removal of Onetime Expenditures	(1.00)	(20,900,300)	(761,182,500)	(371,235,900)	(1,153,318,700)
Base Adjustments	(5.51)	0	(20,366,700)	(13,069,300)	(33,436,000)
FY 2020 Base	19,708.08	3,670,198,400	1,539,346,900	2,866,250,000	8,075,795,300
Benefit Costs	0.00	1,341,800	(3,609,400)	(1,461,800)	(3,729,400)
Inflationary Adjustments	0.00	951,600	3,238,700	11,400	4,201,700
Replacement Items	0.00	8,532,800	82,936,800	2,263,300	93,732,900
Statewide Cost Allocation	0.00	2,775,900	1,998,500	695,800	5,470,200
Annualizations	0.75	2,718,200	55,400	0	2,773,600
Change in Employee Compensation	0.00	20,476,200	14,790,200	6,325,300	41,591,700
Public Schools Admin/Classified CEC	0.00	7,341,700	0	0	7,341,700
Nondiscretionary Adjustments	0.00	128,887,600	6,475,900	60,802,300	196,165,800
Endowment Adjustments	0.00	(1,795,200)	2,082,300	0	287,100
FY 2020 Program Maintenance	19,708.83	3,841,429,000	1,647,315,300	2,934,886,300	8,423,630,600
Line Items by Functional Area					
Education	12.75	37,053,200	121,900	2,249,400	39,424,500
Health and Human Services	12.00	12,813,600	18,046,100	208,656,000	239,515,700
Law and Justice	33.00	8,913,800	7,722,200	650,500	17,286,500
Natural Resources	6.42	21,744,600	9,638,600	9,936,000	41,319,200
Economic Development	17.30	6,235,300	66,603,000	67,469,900	140,308,200
General Government	49.50	24,035,700	44,696,400	7,951,400	76,683,500
Omnibus Decisions	(13.00)	(24,900)	3,529,800	219,900	3,724,800
Cash Transfers	0.00	(54,897,100)	(2,216,000)	0	(57,113,100)
FY 2020 Original Appropriation	19,826.80	3,897,303,200	1,795,457,300	3,232,019,400	8,924,779,900
Percent Change from Orig. Appropriation	1.2%	6.7%	0.6%	12.0%	7.2%
Percent Change from Total Appropriation	1.1%	5.6%	(22.0%)	1.2%	(2.8%)

FY 2020 Total Recommendation

	FTP	Pers Costs	Oper Exp	Cap Out	T/B Pymts	Lump Sum	Total
General	9,403.96	869,273,800	275,390,100	12,373,300	834,724,900	1,878,665,400	3,870,427,500
OT	0.67	433,500	3,321,400	7,846,900	15,173,900	100,000	26,875,700
Fund Total:	9,404.63	869,707,300	278,711,500	20,220,200	849,898,800	1,878,765,400	3,897,303,200
Dedicated	8,384.50	625,998,200	414,678,200	139,014,400	330,037,700	101,576,300	1,611,304,800
OT	0.00	11,700	40,709,400	143,276,400	155,000	0	184,152,500
Fund Total:	8,384.50	626,009,900	455,387,600	282,290,800	330,192,700	101,576,300	1,795,457,300
Federal	2,037.67	276,101,400	232,019,900	264,888,200	2,073,599,800	264,115,000	3,110,724,300
OT	0.00	31,400	48,031,300	39,797,100	29,111,800	4,323,500	121,295,100
Fund Total:	2,037.67	276,132,800	280,051,200	304,685,300	2,102,711,600	268,438,500	3,232,019,400
Total:	19,826.80	1,771,850,000	1,014,150,300	607,196,300	3,282,803,100	2,248,780,200	8,924,779,900

FY 2019 Deficiency Warrants And Supplemental Requests

Func Area/Dept/Div	Request			Gov's Rec		
	FTP	General	Total	FTP	General	Total
Medical Services						
20. Population-Driven Costs	0.00	762,700	762,700	0.00	51,300	51,300
21. SIC1 North Dorm Conversion	0.00	629,900	629,900	0.00	524,800	524,800
Idaho State Police						
Racing Commission						
22. Hair Testing Rule	0.00	0	40,900	0.00	0	40,900
Natural Resources						
Department of Fish and Game						
23. Endangered Species Habitat Projects	0.00	0	1,825,100	0.00	0	1,825,100
Economic Development						
Industrial Commission						
24. Chinden Campus Relocation	0.00	0	967,900	0.00	0	847,400
Public Utilities Commission						
25. Chinden Campus Relocation	0.00	0	2,419,300	0.00	0	2,419,300
Self-Governing Agencies						
Division of Building Safety						
26. Fund Shift Between Programs	0.00	0	0	0.00	0	0
27. Receipt of Donations	0.00	0	30,000	0.00	0	30,000
28. DOT Grant	1.00	0	71,900	1.00	0	71,900
29. Damage Prevention Program	0.00	0	40,000	0.00	0	40,000
30. PUC Sub grant	0.00	0	44,700	0.00	0	44,700
Idaho State Historical Society						
31. Idaho State Museum	0.00	0	1,500,000	0.00	0	1,500,000
Idaho Commission for Libraries						
32. LiLI Contract Extension	0.00	54,000	54,000	0.00	0	0
33. Broadband Reimbursement	0.00	12,600	12,600	0.00	0	0
Medical Boards						
34. Database Upgrade Completion	0.00	0	178,500	0.00	0	178,500
35. Retirement Vacation Payout	0.00	0	20,600	0.00	0	20,600
Public Defense Commission						
36. Training Director	1.00	39,500	39,500	0.00	0	0
37. Public Defender Training	0.00	15,000	15,000	0.00	0	0
38. Extraordinary Litigation Costs	0.00	177,000	177,000	0.00	0	0
Division of Veterans Services						
39. Appropriation Adjust-Match Revenue	0.00	0	0	0.00	0	0
40. 4th Veterans Home Design Costs	0.00	0	0	0.00	0	800,000
Idaho Transportation Department						
Transportation Services						
41. D5 Headquarters Roof Replacement	0.00	0	330,000	0.00	0	330,000
Contract Construction & Right-of-Way Acquisition						
42. Strategic Initiatives Program Fund	0.00	0	62,160,300	0.00	0	62,160,300
43. FHWA Grant I-84 Projects	0.00	0	90,240,000	0.00	0	90,240,000
General Government						
Department of Administration						
44. Chinden Campus	1.00	0	0	1.00	0	0
45. Project Management Software	0.00	0	181,000	0.00	0	181,000
46. Postal Increase	0.00	0	87,800	0.00	0	87,800
Permanent Building Fund						
47. ISU Eames Complex	0.00	0	0	0.00	0	0
Office of the Governor						
Commission for the Blind and Visually Impaired						
48. Adaptive Aids & Appliances	0.00	0	15,000	0.00	0	15,000

FTP All Funds Summary by Agency

	FY 2018 Actual	FY 2019 Orig App	FY 2020 Request	Chg From FY 2019 Orig	FY 2020 Gov's Rec	Chg From FY 2019
1 Education						
Public School Support						
Agricultural Research & Extension Service	301.44	320.34	348.68	28.34	343.11	22.77
College and Universities	4,558.31	4,680.80	4,756.72	75.92	4,753.54	72.74
Community Colleges						
Education, Office of the State Board of	31.25	34.25	38.25	4.00	35.25	1.00
Health Education Programs	25.80	30.15	40.65	10.50	36.65	6.50
Career Technical Education	582.96	580.26	585.26	5.00	582.26	2.00
Idaho Public Television	65.48	68.48	70.48	2.00	69.48	1.00
Special Programs	43.13	45.59	49.03	3.44	46.59	1.00
Superintendent of Public Instruction	142.00	142.00	143.00	1.00	142.00	
Vocational Rehabilitation	152.50	154.00	154.00		149.00	(5.00)
Total Education	5,902.87	6,055.87	6,186.07	130.20	6,157.88	102.01
2 Health and Human Services						
Catastrophic Health Care Program						
Health and Welfare, Department of	2,702.38	2,706.71	2,719.11	12.40	2,713.11	6.40
Medicaid, Division of	216.00	216.00	221.00	5.00	219.00	3.00
Public Health Districts						
State Independent Living Council	4.00	4.00	4.00		4.00	
Total Health and Human Services	2,922.38	2,926.71	2,944.11	17.40	2,936.11	9.40
3 Law and Justice						
Correction, Department of	2,024.85	2,039.85	2,097.85	58.00	2,058.85	19.00
Judicial Branch	334.00	353.00	362.00	9.00	362.00	9.00
Juvenile Corrections, Department of	413.00	414.00	417.00	3.00	414.00	
Police, Idaho State	588.85	600.85	617.85	17.00	607.85	7.00
Total Law and Justice	3,360.70	3,407.70	3,494.70	87.00	3,442.70	35.00
4 Natural Resources						
Environmental Quality, Department of	382.00	386.00	389.00	3.00	389.00	3.00
Fish and Game, Department of	565.00	569.00	569.00		569.00	
Land, Board of Commissioners	315.85	324.85	327.82	2.97	326.82	1.97
Parks and Recreation, Department of	170.44	172.44	174.19	1.75	174.19	1.75
Water Resources, Department of	160.00	163.00	163.00		163.00	
Total Natural Resources	1,593.29	1,615.29	1,623.01	7.72	1,622.01	6.72
5 Economic Development						
Agriculture, Department of	232.75	238.75	242.00	3.25	241.75	3.00
Commerce, Department of	43.00	43.00	43.00		43.00	
Finance, Department of	66.00	67.00	67.00		65.00	(2.00)
Industrial Commission	138.25	138.25	140.25	2.00	132.25	(6.00)
Insurance, Department of	76.50	76.50	76.50		71.50	(5.00)
Labor, Department of	700.00	681.58	681.58		681.58	
Public Utilities Commission	52.00	52.00	52.00		49.00	(3.00)
Self-Governing Agencies	773.70	782.70	799.50	16.80	787.00	4.30
Transportation Department, Idaho	1,648.00	1,648.00	1,648.00		1,648.00	
Total Economic Development	3,730.20	3,727.78	3,749.83	22.05	3,719.08	(8.70)
6 General Government						
Administration, Department of	140.00	113.00	125.00	12.00	125.00	12.00
Permanent Building Fund						
Attorney General	208.60	210.60	216.10	5.50	215.10	4.50
State Controller	95.00	95.00	95.00		95.00	
Governor, Office of the	761.55	852.92	895.92	43.00	928.92	76.00
Legislative Branch	73.00	73.00	73.00		73.00	
Lieutenant Governor	3.00	3.00	3.00		3.00	
Revenue and Taxation, Department of	460.00	464.00	478.00	14.00	453.00	(11.00)
Secretary of State	29.00	29.00	31.00	2.00	30.00	1.00
State Treasurer	26.00	26.00	26.00		26.00	
Total General Government	1,796.15	1,866.52	1,943.02	76.50	1,949.02	82.50
Statewide Total:	19,305.59	19,599.87	19,940.74	340.87	19,826.80	226.93

General Fund Recommendation Comparison by Agency

	FY 2019 Approp	FY 2020 Gov's Rec	Amount Change	Percent Change
1 Education				
Public School Support	1,785,265,900	1,891,364,400	106,098,500	5.9%
Agricultural Research & Extension Service	31,307,100	32,169,500	862,400	2.8%
College and Universities	295,763,200	304,280,700	8,517,500	2.9%
Community Colleges	46,126,600	47,368,200	1,241,600	2.7%
Education, Office of the State Board of	6,374,900	6,847,100	472,200	7.4%
Health Education Programs	18,714,500	21,280,100	2,565,600	13.7%
Career Technical Education	66,397,900	68,172,700	1,774,800	2.7%
Idaho Public Television	2,585,300	2,632,400	47,100	1.8%
Special Programs	19,242,200	26,472,100	7,229,900	37.6%
Superintendent of Public Instruction	14,909,800	15,030,500	120,700	0.8%
Vocational Rehabilitation	8,648,300	8,759,300	111,000	1.3%
Total Education	2,295,335,700	2,424,377,000	129,041,300	5.6%
2 Health and Human Services				
Catastrophic Health Care Program	9,999,700	15,000,500	5,000,800	50.0%
Health and Welfare, Department of	180,016,700	179,166,700	(850,000)	(0.5%)
Medicaid, Division of	585,221,400	684,430,500	99,209,100	17.0%
Public Health Districts	9,421,600	9,709,900	288,300	3.1%
State Independent Living Council	223,700	227,700	4,000	1.8%
Total Health and Human Services	784,883,100	888,535,300	103,652,200	13.2%
3 Law and Justice				
Correction, Department of	240,738,600	249,472,100	8,733,500	3.6%
Judicial Branch	47,055,600	50,887,300	3,831,700	8.1%
Juvenile Corrections, Department of	41,771,200	42,566,600	795,400	1.9%
Police, Idaho State	32,772,200	31,292,000	(1,480,200)	(4.5%)
Total Law and Justice	362,337,600	374,218,000	11,880,400	3.3%
4 Natural Resources				
Environmental Quality, Department of	20,461,700	22,465,400	2,003,700	9.8%
Fish and Game, Department of				
Land, Board of Commissioners	6,021,400	6,298,200	276,800	4.6%
Parks and Recreation, Department of	4,217,700	4,010,700	(207,000)	(4.9%)
Water Resources, Department of	19,502,100	19,586,100	84,000	0.4%
Total Natural Resources	50,202,900	52,360,400	2,157,500	4.3%
5 Economic Development				
Agriculture, Department of	14,506,100	14,738,700	232,600	1.6%
Commerce, Department of	5,800,900	5,883,200	82,300	1.4%
Finance, Department of				
Industrial Commission	300,000	300,000	0	0.0%
Insurance, Department of				
Labor, Department of	342,200	347,100	4,900	1.4%
Public Utilities Commission				
Self-Governing Agencies	18,553,600	13,762,100	(4,791,500)	(25.8%)
Transportation Department, Idaho				
Total Economic Development	39,502,800	35,031,100	(4,471,700)	(11.3%)
6 General Government				
Administration, Department of	6,582,900	6,789,800	206,900	3.1%
Permanent Building Fund				
Attorney General	23,639,800	24,177,900	538,100	2.3%
State Controller	10,951,200	11,005,300	54,100	0.5%
Governor, Office of the	24,180,400	24,796,100	615,700	2.5%
Legislative Branch	12,967,200	13,146,300	179,100	1.4%
Lieutenant Governor	177,600	182,600	5,000	2.8%
Revenue and Taxation, Department of	36,763,200	37,561,900	798,700	2.2%
Secretary of State	3,770,000	3,662,400	(107,600)	(2.9%)
State Treasurer	1,430,400	1,459,100	28,700	2.0%
Total General Government	120,462,700	122,781,400	2,318,700	1.9%
Statewide Total	3,652,724,800	3,897,303,200	244,578,400	6.7%

All Funds Recommendation Comparison by Agency

	FY 2019 Approp	FY 2020 Gov's Rec	Amount Change	Percent Change
1 Education				
Public School Support	2,140,615,100	2,257,608,700	116,993,600	5.5%
Agricultural Research & Extension Service	31,331,100	32,193,500	862,400	2.8%
College and Universities	576,786,400	601,252,600	24,466,200	4.2%
Community Colleges	46,926,600	48,223,200	1,296,600	2.8%
Education, Office of the State Board of	15,961,200	16,490,300	529,100	3.3%
Health Education Programs	19,035,500	21,608,200	2,572,700	13.5%
Career Technical Education	75,963,200	78,475,100	2,511,900	3.3%
Idaho Public Television	9,448,600	9,565,500	116,900	1.2%
Special Programs	23,366,800	31,997,000	8,630,200	36.9%
Superintendent of Public Instruction	39,663,000	40,021,800	358,800	0.9%
Vocational Rehabilitation	28,306,100	28,568,600	262,500	0.9%
Total Education	3,007,403,600	3,166,004,500	158,600,900	5.3%
2 Health and Human Services				
Catastrophic Health Care Program	9,999,700	15,000,500	5,000,800	50.0%
Health and Welfare, Department of	603,829,500	591,031,700	(12,797,800)	(2.1%)
Medicaid, Division of	2,449,450,500	2,803,258,900	353,808,400	14.4%
Public Health Districts	10,171,600	10,483,500	311,900	3.1%
State Independent Living Council	697,800	712,200	14,400	2.1%
Total Health and Human Services	3,074,149,100	3,420,486,800	346,337,700	11.3%
3 Law and Justice				
Correction, Department of	275,655,900	282,041,700	6,385,800	2.3%
Judicial Branch	73,741,900	74,429,000	687,100	0.9%
Juvenile Corrections, Department of	52,104,200	53,050,800	946,600	1.8%
Police, Idaho State	84,142,600	84,998,700	856,100	1.0%
Total Law and Justice	485,644,600	494,520,200	8,875,600	1.8%
4 Natural Resources				
Environmental Quality, Department of	66,960,100	68,064,100	1,104,000	1.6%
Fish and Game, Department of	112,704,300	127,073,100	14,368,800	12.7%
Land, Board of Commissioners	60,085,500	60,697,600	612,100	1.0%
Parks and Recreation, Department of	45,529,900	45,303,900	(226,000)	(0.5%)
Water Resources, Department of	26,461,800	26,921,700	459,900	1.7%
Total Natural Resources	311,741,600	328,060,400	16,318,800	5.2%
5 Economic Development				
Agriculture, Department of	48,139,700	48,399,600	259,900	0.5%
Commerce, Department of	42,314,000	42,406,400	92,400	0.2%
Finance, Department of	8,648,100	9,207,000	558,900	6.5%
Industrial Commission	17,481,100	18,007,900	526,800	3.0%
Insurance, Department of	10,209,400	9,728,700	(480,700)	(4.7%)
Labor, Department of	88,276,300	93,540,000	5,263,700	6.0%
Public Utilities Commission	6,682,600	6,602,500	(80,100)	(1.2%)
Self-Governing Agencies	92,598,400	143,536,000	50,937,600	55.0%
Transportation Department, Idaho	700,814,600	726,899,700	26,085,100	3.7%
Total Economic Development	1,015,164,200	1,098,327,800	83,163,600	8.2%
6 General Government				
Administration, Department of	37,917,200	46,734,200	8,817,000	23.3%
Permanent Building Fund	77,772,000	70,370,500	(7,401,500)	(9.5%)
Attorney General	25,318,600	26,348,200	1,029,600	4.1%
State Controller	18,817,700	18,986,600	168,900	0.9%
Governor, Office of the	201,124,800	185,523,000	(15,601,800)	(7.8%)
Legislative Branch	15,716,200	15,791,400	75,200	0.5%
Lieutenant Governor	177,600	183,800	6,200	3.5%
Revenue and Taxation, Department of	44,358,800	45,458,400	1,099,600	2.5%
Secretary of State	4,970,000	3,665,200	(1,304,800)	(26.3%)
State Treasurer	4,238,300	4,318,900	80,600	1.9%
Total General Government	430,411,200	417,380,200	(13,031,000)	(3.0%)
Statewide Total	8,324,514,300	8,924,779,900	600,265,600	7.2%

All Funds Three-Year Summary by Agency

	FY 2018 Total Approp	FY 2018 Actual	FY 2019 Approp	FY 2020 Request	FY 2020 Gov's Rec
1 Education					
Public School Support	2,041,238,400	2,007,623,300	2,140,615,100	2,293,774,700	2,257,608,700
Agricultural Research & Extension Service	31,287,300	31,263,300	31,331,100	32,983,600	32,193,500
College and Universities	729,702,300	568,291,800	576,786,400	618,868,300	601,252,600
Community Colleges	40,000,900	40,000,900	46,926,600	51,168,700	48,223,200
Education, Office of the State Board of	18,262,400	10,860,700	15,961,200	16,585,700	16,490,300
Health Education Programs	16,654,200	16,014,700	19,035,500	22,850,800	21,608,200
Career Technical Education	80,673,500	74,799,700	75,963,200	82,224,700	78,475,100
Idaho Public Television	9,633,100	8,865,100	9,448,600	9,806,200	9,565,500
Special Programs	19,686,600	17,224,200	23,366,800	27,798,700	31,997,000
Superintendent of Public Instruction	38,818,000	30,005,000	39,663,000	40,059,000	40,021,800
Vocational Rehabilitation	28,175,900	25,150,100	28,306,100	28,499,500	28,568,600
Total Education	3,054,132,600	2,830,098,800	3,007,403,600	3,224,619,900	3,166,004,500
2 Health and Human Services					
Catastrophic Health Care Program	17,999,500	17,999,500	9,999,700	20,000,500	15,000,500
Health and Welfare, Department of	577,329,300	528,796,600	603,829,500	601,608,300	591,031,700
Medicaid, Division of	2,343,605,500	2,316,908,000	2,449,450,500	2,620,263,700	2,803,258,900
Public Health Districts	10,091,700	10,084,300	10,171,600	10,455,100	10,483,500
State Independent Living Council	741,100	430,200	697,800	704,200	712,200
Total Health and Human Services	2,949,767,100	2,874,218,600	3,074,149,100	3,253,031,800	3,420,486,800
3 Law and Justice					
Correction, Department of	253,371,000	249,133,100	275,655,900	304,728,200	282,041,700
Judicial Branch	72,364,100	66,561,600	73,741,900	73,780,000	74,429,000
Juvenile Corrections, Department of	52,776,400	48,995,400	52,104,200	53,179,500	53,050,800
Police, Idaho State	79,115,600	74,181,800	84,142,600	88,146,400	84,998,700
Total Law and Justice	457,627,100	438,871,900	485,644,600	519,834,100	494,520,200
4 Natural Resources					
Environmental Quality, Department of	67,899,900	50,981,700	66,960,100	67,863,100	68,064,100
Fish and Game, Department of	108,085,100	101,682,800	112,704,300	126,680,800	127,073,100
Land, Board of Commissioners	55,487,700	47,837,700	60,085,500	61,302,900	60,697,600
Parks and Recreation, Department of	54,312,000	38,288,300	45,529,900	46,882,500	45,303,900
Water Resources, Department of	26,611,800	24,281,200	26,461,800	26,922,500	26,921,700
Total Natural Resources	312,396,500	263,071,700	311,741,600	329,651,800	328,060,400
5 Economic Development					
Agriculture, Department of	48,300,400	36,486,200	48,139,700	48,492,500	48,399,600
Commerce, Department of	38,886,400	25,998,100	42,314,000	42,335,500	42,406,400
Finance, Department of	8,355,300	7,958,300	8,648,100	9,140,800	9,207,000
Industrial Commission	17,253,000	15,467,300	17,481,100	18,243,700	18,007,900
Insurance, Department of	9,690,600	7,483,400	10,209,400	9,928,300	9,728,700
Labor, Department of	97,785,700	60,851,300	88,276,300	88,754,200	93,540,000
Public Utilities Commission	6,572,800	6,259,100	6,682,600	6,740,800	6,602,500
Self-Governing Agencies	110,033,200	89,432,600	92,598,400	144,909,500	143,536,000
Transportation Department, Idaho	1,074,566,200	694,970,000	700,814,600	725,883,400	726,899,700
Total Economic Development	1,411,443,600	944,906,300	1,015,164,200	1,094,428,700	1,098,327,800
6 General Government					
Administration, Department of	42,709,800	34,860,700	37,917,200	47,031,300	46,734,200
Permanent Building Fund	118,671,000	31,414,400	77,772,000	48,773,700	70,370,500
Attorney General	24,714,400	24,135,900	25,318,600	26,242,000	26,348,200
State Controller	19,300,200	16,032,400	18,817,700	18,890,400	18,986,600
Governor, Office of the	173,220,100	186,497,100	201,124,800	185,466,100	185,523,000
Legislative Branch	17,078,300	14,381,100	15,716,200	15,702,500	15,791,400
Lieutenant Governor	172,900	169,100	177,600	181,000	183,800
Revenue and Taxation, Department of	45,987,900	43,733,900	44,358,800	46,053,000	45,458,400
Secretary of State	4,947,300	4,928,200	4,970,000	3,853,200	3,665,200
State Treasurer	6,966,800	6,463,400	4,238,300	12,048,800	4,318,900
Total General Government	453,768,700	362,616,200	430,411,200	404,242,000	417,380,200
Statewide Total	8,639,135,600	7,713,783,500	8,324,514,300	8,825,808,300	8,924,779,900

Change in Employee Compensation (CEC) Twenty-Year Historical Comparison

Fiscal Year	Orig Gen Fund	% Change	DHR Rec*	Agency CEC	Judges CEC	CPI %
1999	\$ 1,610,815,500	11.9%	7.7%	5.0%	5.0%	2.0%
2000	\$ 1,674,713,100	4.0%	14.0%	3.0%	4.0%	3.7%
2001	\$ 1,804,038,100	7.7%	0.0%	3.5%	3.5%	3.3%
2002	\$ 2,044,295,100	13.3%	0.0%	4.5%	4.5%	1.1%
2003	\$ 1,967,895,400	-3.7%	0.0%	0.0%	0.0%	2.1%
2004	\$ 2,004,053,000	1.8%	1.0%	0.0%	0.0%	3.3%
2005	\$ 2,082,138,300	3.9%	6.8%	3.0%	2.0%	2.5%
2006	\$ 2,180,928,300	4.7%	6.7%	1.0%	1.0%	4.3%
2007	\$ 2,593,723,500	18.9%	5.8%	3.0%	6.0%	2.7%
2008	\$ 2,820,674,400	8.8%	5.8%	5.0%	5.0%	5.0%
2009	\$ 2,959,283,400	4.9%	5.0%	3.0%	3.0%	-1.4%
2010	\$ 2,506,580,100	-15.3%	5.0%	-5.0%	0.0%	1.1%
2011	\$ 2,383,836,000	-4.9%	3.0%	0.0%	0.0%	3.6%
2012	\$ 2,528,960,600	6.1%	3.0%	0.0%	0.0%	1.7%
2013	\$ 2,702,105,700	6.8%	3.0%	2.0%	2.0%	1.8%
2014	\$ 2,781,023,800	2.9%	0.0%	0.0%	0.0%	2.1%
2015	\$ 2,936,096,600	5.6%	2.0%	2.0%	10.7%	0.1%
2016	\$ 3,071,860,500	4.6%	3.0%	3.0%	3.7%	1.0%
2017	\$ 3,272,991,000	6.5%	3.0%	3.0%	3.7%	1.6%
2018	\$ 3,450,575,300	5.4%	3.0%	3.0%	3.9%	2.9%
2019	\$ 3,652,724,800	5.9%	3.0%	3.0%	3.0%	NA
Average Change***		4.40%	3.66%	1.85%	2.80%	2.23%

* CEC rec. from the Personnel Commission (prior to FY 2001) or Div. of Human Resources (§67-5309C, Idaho Code).

Calendar Year	Statewide Elected Officials	Attorney General	Lt Gov	Governor	Legislator Salary	Legislator % Change**
1999	11.1%	10.0%	8.8%	8.8%	\$ 14,760	
2000	3.3%	3.0%	3.0%	3.2%	\$ 14,760	0.0%
2001	3.2%	4.1%	2.9%	3.1%	\$ 15,646	
2002	0.0%	0.0%	0.0%	0.0%	\$ 15,646	6.0%
2003	0.0%	0.0%	0.0%	0.0%	\$ 15,646	
2004	0.0%	0.0%	0.0%	0.0%	\$ 15,646	0.0%
2005	0.0%	0.0%	0.0%	0.0%	\$ 15,646	
2006	3.1%	3.3%	2.8%	3.0%	\$ 15,646	0.0%
2007	4.0%	4.0%	4.0%	4.0%	\$ 16,116	
2008	3.0%	3.0%	3.0%	3.0%	\$ 16,116	3.0%
2009	2.9%	2.9%	2.9%	2.9%	\$ 16,116	
2010	3.0%	3.0%	3.0%	3.0%	\$ 16,116	0.0%
2011	-3.9%	-3.9%	-4.0%	-4.0%	\$ 16,116	
2012	4.1%	4.1%	4.1%	4.1%	\$ 16,116	0.0%
2013	6.1%	1.3%	15.5%	1.4%	\$ 16,438	
2014	1.7%	1.7%	1.7%	1.7%	\$ 16,438	2.0%
2015	1.5%	15.8%	18.4%	1.5%	\$ 16,684	
2016	1.5%	0.0%	1.5%	1.5%	\$ 16,684	1.5%
2017	1.5%	0.0%	1.5%	1.5%	\$ 17,017	2.0%
2018	1.5%	0.0%	1.5%	1.5%	\$ 17,358	2.0%
2019	1.5%	2.8%	1.5%	1.5%	\$ 17,879	3.0%
Average Change***	1.90%	2.25%	3.16%	1.65%		1.77%

**Legislators pay changes effective December 1, 2016 for two years (one term).

***Average annual change (Elected Officials' increase authorized by the 2018 Legislature in Session Laws, Chapter 269).

Employee Contributions to Their Own Benefit Costs

Employee-Paid Health Insurance Premiums

FY 2018: Employee-paid premiums increased \$84 to \$348 per year, depending on plan type and number of enrolled dependents.

FY 2019: Employee-paid premiums increased \$48 to \$264 per year, depending on plan type and number of enrolled dependents.

FY 2020 (Gov's Rec / OGI Projection): Employee-paid premiums are projected to increase \$60 to \$300 per year (equal to the FY 2019 trend rate of 2.76%), depending on plan type and number of enrolled dependents.

FY 2020 Gov's Rec / OGI Projection for Annual Plan Premiums for a Full-Time Employee (working 30 - 40 hours/week)

Plan Type	Employee	Employee & Spouse	Employee & Child	Employee & Children	Employee, Spouse & Child	Employee, Spouse & Children
PPO	\$732	\$1,836	\$1,260	\$1,704	\$2,292	\$2,640
Traditional	\$900	\$2,220	\$1,560	\$2,052	\$2,772	\$3,108
High Deductible	\$588	\$1,548	\$1,032	\$1,404	\$1,932	\$2,160

FY 2020 Variable Benefits as a % of Gross Salary:

FICA - Social Security	6.20% (to \$128,400)
FICA - Medicare	1.45%
Regular Retirement Rate (other rates for police/fire)	7.16%
Total Variable Benefits	14.81%

FY 2020 Examples for Hourly Rates of \$15/hour, \$21/hour, and \$30/hour

Hourly rate	\$15	\$21	\$30
Annual Salary (hourly rate x 2080 hours)	\$31,200	\$43,680	\$62,400
Health & Dental Insurance (Average Cost per Employee)	\$2,054	\$2,054	\$2,054
Variable Benefits (14.81% x Salary)	\$4,621	\$6,469	\$9,241
Benefit Costs for the Employee	\$6,675	\$8,523	\$11,296
Proportion of Benefit Costs to Salary	21%	20%	18%

Optional Employee-Paid Benefits

1. **Flexible Spending Account:** Employees can elect to set aside pre-tax dollars to pay for qualified out-of-pocket health and dependent care expenses.

2. **PERSI Choice Plan:** As part of the gain sharing program, whereby excess investment gains from the PERSI defined benefit fund are distributed to employees, employers, and retirees, the Choice Plan is an optional defined contribution 401(k) plan. The Choice Plan is in addition to, and separate from, the mandatory defined benefit retirement plan. No employer contribution: §59-1308, Idaho Code.

3. **Deferred Compensation 457 Plan:** Pre-tax savings plan, administered by Nationwide Retirement Services: §59-513, Idaho Code.

Twenty-Two Year History of General Fund **Change from Previous Original Appropriations: FY 1998 to FY 2019** Millions of Dollars

Fiscal Year	Public Schools	College & Universities	All Other Education	Total Education	Health & Welfare	Adult & Juv Corrections	All Other Agencies	Total Gen Fund
2019	\$100.0	\$8.7	\$15.4	\$124.1	\$59.1	\$20.4	(\$1.5)	\$202.1
2018	\$100.6	\$7.5	\$11.4	\$119.5	\$29.0	\$6.0	\$23.1	\$177.6
2017	\$108.9	\$20.8	\$17.7	\$147.4	\$27.6	\$8.8	\$17.4	\$201.1
2016	\$101.2	\$7.6	\$16.0	\$124.7	\$12.2	\$4.2	(\$5.3)	\$135.8
2015	\$66.2	\$14.7	\$10.8	\$91.7	\$20.5	\$25.0	\$18.0	\$155.1
2014	\$28.5	\$8.6	\$5.0	\$42.1	\$6.7	\$12.8	\$17.3	\$78.9
2013	\$56.2	\$18.1	\$9.7	\$84.1	\$45.3	\$12.4	\$31.4	\$173.1
2012	\$9.3	(\$7.7)	(\$1.7)	(\$0.)	\$128.5	\$12.4	\$4.2	\$145.1
2011	(\$17.1)	(\$35.8)	(\$11.2)	(\$64.1)	(\$26.0)	(\$6.1)	(\$26.6)	(\$122.7)
2010*	(\$187.2)	(\$31.9)	(\$34.0)	(\$253.0)	(\$125.0)	(\$29.2)	(\$45.6)	(\$452.7)
2009	\$51.2	\$20.9	\$8.9	\$81.1	\$42.4	\$14.8	\$4	\$138.6
2008	\$75.8	\$20.5	\$17.8	\$114.1	\$42.5	\$23.2	\$47.2	\$227.0
2007*	\$304.5	\$14.8	\$6.5	\$325.8	\$44.7	\$25.8	\$16.5	\$412.8
2006	\$22.4	\$5.6	\$3.6	\$31.5	\$50.1	\$9.4	\$7.7	\$98.8
2005	\$21.7	\$5.4	\$6.9	\$34.0	\$31.7	\$2.1	\$10.2	\$78.1
2004	\$23.0	\$4.4	\$9	\$28.4	\$16.2	(\$4.4)	(\$4.0)	\$36.2
2003	(\$13.0)	(\$22.9)	(\$11.7)	(\$47.5)	\$1.6	(\$2.2)	(\$28.2)	(\$76.4)
2002	\$59.5	\$21.5	\$21.0	\$102.0	\$75.9	\$24.1	\$38.3	\$240.3
2001*	\$52.4	\$13.0	\$10.7	\$76.1	\$11.4	\$14.7	\$27.1	\$129.3
2000	\$24.7	\$9.0	\$6.8	\$40.6	\$18.1	\$2.1	\$3.2	\$63.9
1999	\$91.4	\$14.3	\$9.1	\$114.8	\$16.1	\$16.1	\$25.0	\$171.9
1998	\$15.5	\$6	\$1	\$16.1	(\$1.9)	\$11.7	\$3	\$26.3

Percent Change from Previous Original Appropriations

Fiscal Year	Public Schools	College & Universities	All Other Education	Total Education	Health & Welfare	Adult & Juv Corrections	All Other Agencies	Total
2019	5.9%	3.0%	7.8%	5.7%	8.4%	7.8%	(0.5%)	5.9%
2018	6.3%	2.7%	6.1%	5.8%	4.3%	2.3%	8.0%	5.4%
2017	7.4%	8.0%	10.5%	7.7%	4.3%	3.5%	6.4%	6.5%
2016	7.4%	3.0%	10.4%	7.0%	1.9%	1.7%	(1.9%)	4.6%
2015	5.1%	6.2%	7.5%	5.4%	3.3%	11.4%	7.0%	5.6%
2014	2.2%	3.8%	3.6%	2.6%	1.1%	6.2%	7.2%	2.9%
2013	4.6%	8.6%	7.6%	5.4%	8.0%	6.4%	15.0%	6.8%
2012	0.8%	(3.5%)	(1.3%)	(0.0%)	29.5%	6.9%	2.1%	6.1%
2011	(1.4%)	(14.1%)	(8.0%)	(3.9%)	(5.6%)	(3.3%)	(11.5%)	(4.9%)
2010*	(13.2%)	(11.2%)	(19.4%)	(13.5%)	(21.3%)	(13.5%)	(16.4%)	(15.3%)
2009	3.7%	7.9%	5.4%	4.5%	7.8%	7.3%	0.1%	4.9%
2008	5.9%	8.4%	12.0%	6.8%	8.5%	13.0%	20.6%	8.8%
2007*	30.8%	6.5%	4.6%	24.0%	9.8%	17.0%	7.7%	18.9%
2006	2.3%	2.5%	2.6%	2.4%	12.3%	6.6%	3.8%	4.7%
2005	2.3%	2.5%	5.3%	2.6%	8.4%	1.5%	5.2%	3.9%
2004	2.5%	2.1%	0.7%	2.2%	4.5%	(3.0%)	(2.0%)	1.8%
2003	(1.4%)	(9.7%)	(8.2%)	(3.6%)	0.5%	(1.5%)	(12.4%)	(3.7%)
2002	6.8%	10.0%	17.4%	8.4%	26.9%	19.5%	20.2%	13.3%
2001*	6.4%	6.4%	9.7%	6.7%	4.2%	13.6%	16.7%	7.7%
2000	3.1%	4.7%	6.6%	3.7%	7.1%	2.0%	2.0%	4.0%
1999	13.0%	8.0%	9.7%	11.7%	6.8%	17.8%	18.7%	11.9%
1998	2.3%	0.3%	0.1%	1.7%	(0.8%)	14.9%	0.2%	1.9%

2010* Moved Deaf/Blind School from "Other Education" to "Public Schools"; Historical Society and Libraries to "All Other Agencies".
2007* Adjusted for H1 of 2006 Special Session which increased Public Schools General Fund by \$250,645,700.
2001* Moved Department of Environmental Quality and Veterans Services from H&W to "All Other Agencies".

State of Idaho Major Reserve Fund Balances

Emergency Funds include: 1) Governor's Emergency, Section 57-1601, Idaho Code; and 2) Disaster Emergency, Section 46-1005A, Idaho Code, which includes both Federal Emergency Management Act and state moneys.

In Millions of Dollars	Budget Stabilization Fund	Public Ed Stabilization Fund	Economic Recovery Reserve	Idaho Millennium Fund	Higher Ed Stabilization Fund	Emergency Funds	TOTAL
1. Balance June 30, 2003	\$ 0.000	\$ 0.000	\$ 0.000	\$ 0.000	\$ 0.000	(\$ 0.218)	(\$ 0.218)
2. Balance June 30, 2004	\$ 0.000	\$ 7.135	\$ 0.000	\$ 22.872	\$ 0.000	\$ 0.154	\$ 30.161
3. Balance June 30, 2005	\$ 15.971	\$ 12.135	\$ 22.044	\$ 44.677	\$ 0.000	\$ 0.132	\$ 94.960
4. Balance June 30, 2006	\$ 108.648	\$ 7.771	\$ 24.632	\$ 67.436	\$ 0.000	\$ 0.281	\$ 208.768
5. Balance June 30, 2007	\$ 121.566	\$ 109.030	\$ 2.657	\$ 64.079	\$ 0.000	\$ 0.875	\$ 298.207
6. Balance June 30, 2008	\$ 140.625	\$ 112.046	\$ 66.133	\$ 70.207	\$ 0.000	\$ 3.337	\$ 392.349
7. Balance June 30, 2009	\$ 128.225	\$ 17.979	\$ 68.101	\$ 74.206	\$ 0.000	\$ 0.720	\$ 289.231
8. Balance June 30, 2010	\$ 30.820	\$ 23.174	\$ 48.847	\$ 76.967	\$ 0.000	\$ 0.792	\$ 180.600
9. Balance June 30, 2011	\$ 0.100	\$ 11.154	\$ 0.054	\$ 74.589	\$ 0.000	\$ 3.339	\$ 89.235
10. Balance June 30, 2012	\$ 23.869	\$ 36.968	\$ 0.056	\$ 14.156	\$ 0.367	\$ 4.233	\$ 79.648
11. Balance June 30, 2013	\$ 135.138	\$ 49.049	\$ 0.057	\$ 15.492	\$ 0.942	\$ 3.424	\$ 204.103
12. Balance June 30, 2014	\$ 161.514	\$ 72.851	\$ 0.057	\$ 20.235	\$ 3.227	\$ 3.373	\$ 261.256
13. Balance June 30, 2015	\$ 243.821	\$ 90.948	\$ 0.057	\$ 25.409	\$ 3.492	\$ 2.795	\$ 366.522
14. Balance June 30, 2016	\$ 259.444	\$ 88.551	\$ 20.092	\$ 29.787	\$ 3.064	\$ 2.567	\$ 403.505
20. Balance June 30, 2017	\$ 318.746	\$ 85.043	\$ 0.370	\$ 33.584	\$ 8.866	\$ 53.901	\$ 500.510
FY 2018 Actuals							
21. Interest Earnings and Revenues		0.676	0.076	0.479	0.076	4.483	5.789
22. Transfers In (Out)				4.728	1.337		6.064
23. Disbursements		(21.369)		(1.296)	(5.000)	(16.910)	(44.575)
24. Transfers from GF §57-814 Δ 8.21%	34.484						34.484
25. End-of-Year Surplus Eliminator	60.296						60.296
26. Balance June 30, 2018	\$ 413.526	\$ 64.350	\$ 0.446	\$ 37.494	\$ 5.278	\$ 41.474	\$ 562.569
General Fund Revenue = \$ 3,731.6 11.1% 1.7% 0.0% 1.0% 0.1% 1.1% 15.1%							
The balance in Idaho's major reserve funds at the end of FY 2018 (line 26) was \$562.6 million or 15.1% of the FY 2018 General Fund Revenue Collections.							
* FY 2019 Estimates							
27. Interest Earnings and Revenues	0.373	0.826	0.036	0.279	0.074	5.291	6.879
28. Transfers In (Out)		32.210		5.000	2.277		39.487
29. Disbursements		(16.635)	(0.442)	(1.500)		(14.889)	(33.466)
30. Transfers from GF §57-814 Δ .50%							
31. End-of-Year Surplus Eliminator							
32. Estimate* June 30, 2019	\$ 413.899	\$ 80.752	\$ 0.041	\$ 41.273	\$ 7.629	\$ 31.877	\$ 575.470
General Fund Revenue = \$ 3,750.3 11.0% 2.2% 0.0% 1.1% 0.2% 0.8% 15.3%							
The balance in Idaho's major reserve funds at the end of FY 2019 (line 32) is estimated to be \$575.5 million or 15.3% of the FY 2019 General Fund Revenue Estimate.							
* FY 2020 Estimates							
33. Interest Earnings and Revenues	0.373	0.826	0.036	0.407	0.088		1.731
34. Transfers In (Out)		8.600		5.000		2.000	15.600
35. Disbursements				(1.685)			(1.685)
36. Transfers from GF §57-814 Δ 8.19%							
37. End-of-Year Surplus Eliminator							
38. Estimate* June 30, 2020	\$ 414.271	\$ 90.178	\$ 0.077	\$ 44.995	\$ 7.717	\$ 33.877	\$ 591.116
General Fund Revenue = \$ 4,057.4 10.2% 2.2% 0.0% 1.1% 0.2% 0.8% 14.6%							
The balance in Idaho's major reserve funds at the end of FY 2020 (line 38) is estimated to be \$591.1 million or 14.6% of the FY 2020 General Fund Revenue Estimate.							

Department of Correction FY 2020*

	Agency Request					Governor's Recommendation				
	FTP	Gen	Ded	Fed	Total	FTP	Gen	Ded	Fed	Total
FY 2019 Original Appropriation	2,002.85	237,421,200	33,199,100	1,647,500	272,267,800	2,002.85	237,421,200	33,199,100	1,647,500	272,267,800
Reappropriation	0.00	0	0	0	0	0.00	0	0	0	0
1. Population-Driven Costs (COSP)	0.00	0	0	0	0	0.00	1,742,700	0	0	1,742,700
1. Population-Driven Costs (CAPP)	0.00	0	0	0	0	0.00	0	0	0	0
1. Population-Driven Costs (Med)	0.00	762,700	0	0	762,700	0.00	51,300	0	0	51,300
2. SICI North Dorm Conversion	0.00	629,900	0	0	629,900	0.00	524,800	0	0	524,800
FY 2019 Total Appropriation	2,002.85	238,813,800	33,199,100	1,647,500	273,660,400	2,002.85	239,740,000	33,199,100	1,647,500	274,586,600
Noncognizable Funds and Transfers	0.00	0	0	0	0	0.00	0	0	0	0
FY 2019 Estimated Expenditures	2,002.85	238,813,800	33,199,100	1,647,500	273,660,400	2,002.85	239,740,000	33,199,100	1,647,500	274,586,600
Removal of Onetime Expenditures	0.00	(1,143,400)	(9,853,600)	(80,000)	(11,077,000)	0.00	(1,143,400)	(9,853,600)	(80,000)	(11,077,000)
Base Adjustments	0.00	0	0	0	0	0.00	0	0	0	0
FY 2020 Base	2,002.85	237,670,400	23,345,500	1,567,500	262,583,400	2,002.85	238,596,600	23,345,500	1,567,500	263,509,600
Benefit Costs	0.00	262,400	26,800	1,900	291,100	0.00	(985,200)	(101,300)	(7,100)	(1,093,600)
Inflationary Adjustments	0.00	219,700	0	0	219,700	0.00	219,700	0	0	219,700
Replacement Items	0.00	2,937,000	1,073,200	0	4,010,200	0.00	2,030,300	1,039,500	0	3,069,800
Statewide Cost Allocation	0.00	826,100	40,100	0	866,200	0.00	826,100	40,100	0	866,200
Annualizations	0.00	0	0	0	0	0.00	0	0	0	0
Change in Employee Compensation	0.00	999,300	107,400	8,200	1,114,900	0.00	2,994,800	322,000	23,400	3,340,200
FY 2020 Program Maintenance	2,002.85	242,914,900	24,593,000	1,577,600	269,085,500	2,002.85	243,682,300	24,645,800	1,583,800	269,911,900
1. OMS Replacement Phase 2	0.00	6,376,000	0	0	6,376,000	0.00	0	6,376,000	0	6,376,000
2. CO Entry-Level Pay	0.00	4,477,800	229,000	0	4,706,800	0.00	2,239,300	114,800	0	2,354,100
3. Probation and Parole Officers	34.00	3,207,300	0	0	3,207,300	17.00	1,615,900	0	0	1,615,900
4. Presentence Investigators	4.00	280,600	0	0	280,600	2.00	140,900	0	0	140,900
5. Senior PPO Pay	0.00	462,100	151,500	0	613,600	0.00	0	0	0	0
6. Electronic Monitoring	0.00	300,000	0	0	300,000	0.00	150,000	0	0	150,000
7. Rec Area at IMSI	4.00	299,000	0	0	299,000	0.00	0	0	0	0
8. Base Software Licensing	0.00	575,300	0	0	575,300	0.00	575,300	0	0	575,300
9. PREA Screenings	0.00	1,030,200	0	0	1,030,200	0.00	0	0	0	0
10. Wastewater Lagoon Repairs	0.00	1,904,800	0	0	1,904,800	0.00	0	140,400	0	140,400
11. Cybersecurity Upgrades	0.00	606,800	0	0	606,800	0.00	321,400	0	0	321,400
12. Data Center Maintenance	0.00	195,600	0	0	195,600	0.00	0	0	0	0
13. Inmate Pay	0.00	0	216,900	0	216,900	0.00	0	216,900	0	216,900
14. Discretionary Funds	0.00	0	281,400	0	281,400	0.00	0	281,400	0	281,400
15. Population-Driven Costs (COSP)	0.00	7,355,000	0	0	7,355,000	0.00	0	0	0	0
15. Population-Driven Costs (CAPP)	0.00	210,600	0	0	210,600	0.00	210,600	0	0	210,600
15. Population-Driven Costs (Med)	0.00	2,623,000	0	0	2,623,000	0.00	0	0	0	0
16. Twin Falls CRC	15.00	1,138,700	186,500	0	1,325,200	0.00	0	0	0	0
17. Medicaid Expansion	0.00	0	0	0	0	0.00	(2,867,000)	(1,039,100)	(3,906,100)	(3,906,100)
18. Gov Tech Network Equip Replace	0.00	0	0	0	0	0.00	0	175,400	0	175,400
FY 2020 Total	2,059.85	273,957,700	25,658,300	1,577,600	301,193,600	2,021.85	246,068,700	30,911,600	1,583,800	278,564,100
Chg from FY 2018 Orig Approp	57.00	36,536,500	(7,540,800)	(69,900)	28,925,800	19.00	8,647,500	(2,287,500)	(63,700)	6,296,300
% Chg from FY 2018 Orig Approp	2.8%	15.4%	-22.7%	-4.2%	10.6%	0.9%	3.6%	-6.9%	-3.9%	2.3%
% Chg for Maintenance	0.0%	2.3%	-25.9%	-4.2%	-1.2%	0.0%	2.6%	-25.8%	-3.9%	-0.9%

*For illustrative purposes only

Public Defense Commission

Analyst: Hoskins

Historical Summary

OPERATING BUDGET	FY 2018 Total App	FY 2018 Actual	FY 2019 Approp	FY 2020 Request	FY 2020 Gov Rec
BY FUND CATEGORY					
General	5,827,700	5,104,600	5,814,800	11,797,900	894,400
Dedicated	0	0	0	0	11,002,800
Total:	5,827,700	5,104,600	5,814,800	11,797,900	11,897,200
Percent Change:		(12.4%)	13.9%	102.9%	104.6%
BY OBJECT OF EXPENDITURE					
Personnel Costs	555,700	552,600	561,600	759,000	646,900
Operating Expenditures	246,300	249,400	227,500	266,900	245,200
Capital Outlay	0	0	0	9,300	5,100
Trustee/Benefit	5,025,700	4,302,600	5,025,700	10,762,700	11,000,000
Total:	5,827,700	5,104,600	5,814,800	11,797,900	11,897,200
Full-Time Positions (FTP)	6.00	6.00	6.00	8.50	7.00

Division Description

The Public Defense Commission was created by statute in 2014. Pursuant to Section 19-849, Idaho Code, the commission consists of nine members as follows:

- 1) Two members of the Idaho Legislature, one from each chamber;
- 2) One person appointed by the Chief Justice of the Idaho Supreme Court; and
- 3) Six people appointed by the Governor, to include representatives from the Idaho Association of Counties (2), Office of the State Appellate Public Defender (1), and Juvenile Justice Commission (1), as well as attorneys with experience defending indigent persons (2).

The commission is charged with promulgating administrative rules regarding public defender training and continuing legal education; data reporting; requirements for contracts between counties and private attorneys for the provision of public defense services; procedures for grant applications with which counties can apply for state funds to offset the cost of compliance with indigent defense standards; procedures for administrative review of commission decisions; and procedures for the creation, oversight, implementation, enforcement, and modification of indigent defense standards with which public defenders must comply.

The commission is also charged with making recommendations to the Idaho Legislature regarding funding issues and formulas.

The commission is permitted to hire an executive director; employ persons in addition to the executive director; provide an office, equipment, and facilities for the proper performance of the duties of the commission and/or the duties of the executive director and other personnel; provide training to public defenders; establish procedures by which counties may apply for extraordinary litigation costs; and hire private counsel to represent the commission.

Court Operations
Comparative Summary

Analyst: Hoskins

Decision Unit	Agency Request			Governor's Rec		
	FTP	General	Total	FTP	General	Total
FY 2019 Original Appropriation	353.00	45,815,600	72,501,900	353.00	45,815,600	72,501,900
Noncognizable Funds and Transfers	1.00	0	0	1.00	0	0
FY 2019 Estimated Expenditures	354.00	45,815,600	72,501,900	354.00	45,815,600	72,501,900
Removal of Onetime Expenditures	0.00	(121,300)	(3,479,300)	0.00	(121,300)	(3,479,300)
Base Adjustments	1.00	0	0	1.00	0	0
FY 2020 Base	355.00	45,694,300	69,022,600	355.00	45,694,300	69,022,600
Benefit Costs	0.00	119,700	153,200	0.00	(52,100)	(69,800)
Statewide Cost Allocation	0.00	(26,100)	(26,100)	0.00	(26,100)	(26,100)
Annualizations	0.00	42,300	42,300	0.00	42,300	42,300
Change in Employee Compensation	0.00	115,100	186,700	0.00	307,200	520,200
FY 2020 Program Maintenance	355.00	45,945,300	69,378,700	355.00	45,965,600	69,489,200
1. Court Reporter Pay	0.00	340,500	340,500	0.00	340,500	340,500
2. Problem-Solving Courts	0.00	447,300	447,300	0.00	445,200	445,200
3. Court Assistance	0.00	199,000	199,000	0.00	200,500	200,500
4. Judicial CEC	0.00	262,700	262,700	0.00	788,300	788,300
5. Ada County Judges & Court Reporter	4.00	518,800	518,800	4.00	516,200	516,200
6. Senior Financial Specialist	1.00	109,500	109,500	1.00	108,900	108,900
7. Research & Evaluation Analyst	1.00	99,800	99,800	1.00	99,200	99,200
8. ADA Consultant Year 2	0.00	34,000	34,000	0.00	34,000	34,000
9. Court Education Specialist	1.00	194,500	194,500	1.00	193,900	193,900
10. PSC Direct Appropriation	0.00	735,000	735,000	0.00	735,000	735,000
11. Juror Compensation	0.00	150,000	150,000	0.00	150,000	150,000
GOV TECH 1. Network Equip Replacement	0.00	0	0	0.00	0	18,100
FY 2020 Total	362.00	49,036,400	72,469,800	362.00	49,577,300	73,119,000
Change from Original Appropriation	9.00	3,220,800	(32,100)	9.00	3,761,700	617,100
% Change from Original Appropriation		7.0%	0.0%		8.2%	0.9%
% Change for Maintenance		0.3%	(4.3%)		0.3%	(4.2%)

Public Defense Commission
FY 2020 Govs Rec

	FTP	Gen	Ded	Fed	Total
FY 2019 Original Appropriation	6.00	5,814,800	0	0	5,814,800
Supplementals					
1. Training Director	0.00	0	0	0	0
2. Public Defender Training	0.00	0	0	0	0
3. Extraordinary Litigation Costs	0.00	0	0	0	0
FY 2019 Total Appropriation	6.00	5,814,800	0	0	5,814,800
FY 2019 Estimated Expenditures	6.00	5,814,800	0	0	5,814,800
Removal of Onetime Expenditures	0.00	0	0	0	0
FY 2020 Base	6.00	5,814,800	0	0	5,814,800
Benefit Costs	0.00	(2,300)	0	0	(2,300)
Inflationary Adjustments	0.00	2,800	0	0	2,800
Statewide Cost Allocation	0.00	1,800	0	0	1,800
Annualizations	0.00	0	0	0	0
Change in Employee Compensation	0.00	15,300	0	0	15,300
FY 2020 Program Maintenance	6.00	5,832,400	0	0	5,832,400
Line Items					
1. Research Analyst	1.00	84,000	0	0	84,000
2. Part-Time Admin Asst	0.00	0	0	0	0
3. Formula Grants With 15% Cap	0.00	0	0	0	0
4. Formula Grants With 20% Cap	0.00	0	0	0	0
5. Workload Standard Compliance	0.00	0	0	0	0
6. New Funding Methodology	0.00	5,974,300	11,000,000	0	16,974,300
GOV TECH 1. Network Equip Replacement	0.00	0	500	0	500
GOV TECH 2. Mobile Device Security	0.00	0	2,300	0	2,300
GOV TECH 4. Modernization – Admin Billin	0.00	3,700	0	0	3,700
Cash Transfers	0.00	(11,000,000)	0	0	(11,000,000)
FY 2020 Total	7.00	894,400	11,002,800	0	11,897,200
Chg from FY 2019 Orig Approp.	1.00	(4,920,400)	11,002,800	0	6,082,400
% Chg from FY 2019 Orig Approp.	16.7%	(84.6%)			104.6%

□ Dedicated

□ Gen Fund Cash Transfer

Court Operations

FY 2020 Request

	FTP	Gen	Ded	Fed	Total
FY 2019 Original Appropriation	353.00	45,815,600	24,798,400	1,887,900	72,501,900
FY 2019 Total Appropriation	353.00	45,815,600	24,798,400	1,887,900	72,501,900
Noncognizable Funds and Transfers	1.00	0	0	0	0
FY 2019 Estimated Expenditures	354.00	45,815,600	24,798,400	1,887,900	72,501,900
Removal of Onetime Expenditures	0.00	(121,300)	(3,358,000)	0	(3,479,300)
Base Adjustments	1.00	0	0	0	0
FY 2020 Base	355.00	45,694,300	21,440,400	1,887,900	69,022,600
Benefit Costs	0.00	119,700	32,200	1,300	153,200
Statewide Cost Allocation	0.00	(26,100)	0	0	(26,100)
Annualizations	0.00	42,300	0	0	42,300
Change in Employee Compensation	0.00	115,100	68,500	3,100	186,700
FY 2020 Program Maintenance	355.00	45,945,300	21,541,100	1,892,300	69,378,700
Line Items					
1. Court Reporter Pay	0.00	340,500	0	0	340,500
2. Problem-Solving Courts	0.00	447,300	0	0	447,300
3. Court Assistance	0.00	199,000	0	0	199,000
4. Judicial CEC	0.00	262,700	0	0	262,700
5. Ada County Judges & Court Reporter	4.00	518,800	0	0	518,800
6. Senior Financial Specialist	1.00	109,500	0	0	109,500
7. Research & Evaluation Analyst	1.00	99,800	0	0	99,800
8. ADA Consultant Year 2	0.00	34,000	0	0	34,000
9. Court Education Specialist	1.00	194,500	0	0	194,500
10. PSC Direct Appropriation	0.00	735,000	0	0	735,000
11. Juror Compensation	0.00	150,000	0	0	150,000
FY 2020 Total	362.00	49,036,400	21,541,100	1,892,300	72,469,800
Chg from FY 2019 Orig Approp.	9.00	3,220,800	(3,257,300)	4,400	(32,100)
% Chg from FY 2019 Orig Approp.	2.5%	7.0%	(13.1%)	0.2%	0.0%

ccc

Public Defense Commission

Analyst: Hoskins

Comparative Summary

Decision Unit	Agency Request			Governor's Rec		
	FTP	General	Total	FTP	General	Total
FY 2019 Original Appropriation	6.00	5,814,800	5,814,800	6.00	5,814,800	5,814,800
1. Training Director	1.00	39,500	39,500	0.00	0	0
2. Public Defender Training	0.00	15,000	15,000	0.00	0	0
3. Extraordinary Litigation Costs	0.00	177,000	177,000	0.00	0	0
FY 2019 Total Appropriation	7.00	6,046,300	6,046,300	6.00	5,814,800	5,814,800
Removal of Onetime Expenditures	0.00	(5,600)	(5,600)	0.00	0	0
FY 2020 Base	7.00	6,040,700	6,040,700	6.00	5,814,800	5,814,800
Benefit Costs	0.00	2,200	2,200	0.00	(2,300)	(2,300)
Inflationary Adjustments	0.00	2,800	2,800	0.00	2,800	2,800
Statewide Cost Allocation	0.00	1,800	1,800	0.00	1,800	1,800
Annualizations	0.00	68,300	68,300	0.00	0	0
Change in Employee Compensation	0.00	5,100	5,100	0.00	15,300	15,300
FY 2020 Program Maintenance	7.00	6,120,900	6,120,900	6.00	5,832,400	5,832,400
1. Research Analyst	1.00	83,300	83,300	1.00	84,000	84,000
2. Part-time Admin Asst	0.50	33,700	33,700	0.00	0	0
3. Formula Grants With 15% Cap	0.00	299,200	299,200	0.00	0	0
4. Formula Grants With 20% Cap	0.00	1,660,800	1,660,800	0.00	0	0
5. Workload Standard Compliance	0.00	3,600,000	3,600,000	0.00	0	0
6. New Funding Methodology	0.00	0	0	0.00	5,974,300	16,974,300
GOV TECH 1. Network Equip Replacement	0.00	0	0	0.00	0	500
GOV TECH 2. Mobile Device Security	0.00	0	0	0.00	0	2,300
GOV TECH 4. Modernization – Admin Billing	0.00	0	0	0.00	3,700	3,700
Cash Transfers	0.00	0	0	0.00	(11,000,000)	(11,000,000)
FY 2020 Total	8.50	11,797,900	11,797,900	7.00	894,400	11,897,200
Change from Original Appropriation	2.50	5,983,100	5,983,100	1.00	(4,920,400)	6,082,400
% Change from Original Appropriation		102.9%	102.9%		(84.6%)	104.6%
% Change for Maintenance		5.3%	5.3%		0.3%	0.3%

AGENDA
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Wednesday, January 23, 2019

SUBJECT	DESCRIPTION	PRESENTER
VOTE ON GUBERNATORIAL APPOINTMENT	Committee Vote on Appointment of Anna "Janie" Dressen to the Commission on Pardons and Parole	
VOTE ON GUBERNATORIAL APPOINTMENT	Committee Vote on Appointment of Matthew Allen Thomas to the State Sexual Offender Management Board	
GUBERNATORIAL APPOINTMENT HEARING	Committee Consideration of the Appointment of Monty Prow as Director of the Department of Juvenile Corrections	Monty Prow, Director of Juvenile Corrections
GUBERNATORIAL APPOINTMENT HEARING	Committee Consideration of the Appointment of Melinda Smyser as Administrator of the Office of Drug Policy	Melinda Smyser, Administrator of the Office of Drug Policy
<u>S 1004</u>	Relating to the Idaho State Police	Lt. Col. Sheldon Kelley, Idaho State Police
<u>S 1005</u>	Relating to Human Trafficking	Eric D. Fredericksen, Idaho Criminal Justice System

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey	Sen Grow
Vice Chairman Lee	Sen Cheatham
Sen Lodge	Sen Burgoyne
Sen Anthon	Sen Nye

COMMITTEE SECRETARY

Sharon Pennington
Room: WW48
Phone: 332-1317
email:
sjud@senate.idaho.gov

Sen Thayn

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, January 23, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Lodge, Anthon, Thayn, Grow, Cheatham, Burgoyne, and Nye

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the meeting of the Senate Judiciary and Rules Committee (Committee) to order at 1:30 p.m.

GUBERNATORIAL APPOINTMENT VOTE: **Senator Grow** moved to send the Gubernatorial appointment of Anna "Janie" Dressen to the Commission on Pardons and Parole to the floor with the recommendation that she be confirmed by the Senate. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**. Senator Cheatham will carry the appointment on the floor.

GUBERNATORIAL APPOINTMENT VOTE: **Vice Chairman Lee** moved to send the Gubernatorial appointment of Matthew Allen Thomas to the State Sexual Offender Management Board to the floor with the recommendation that he be confirmed by the Senate. **Senator Thayn** seconded the motion. The motion carried by **voice vote**. Vice Chairman Lee will carry the appointment on the floor.

GUBERNATORIAL APPOINTMENT HEARING: **Monty Prow**, Director of the Department of Juvenile Corrections (Department), stated that he had been with the Department for 17 years and 75 percent of its actual existence. He indicated that he had met all 414 members of his department, most of their contract providers, and many of their community partners. He expressed enthusiasm for the opportunity to serve in this capacity and the things that could be improved during his tenure.

DISCUSSION: **Vice Chairman Lee** asked if Director Prow could give an update on the tracking of the number of youth who are either on expanded cases or who were former foster children. **Director Prow** stated that those children are called "crossover youth." The Department will be working to reduce the percentage of foster kids in juvenile settings.

Senator Thayn questioned the kind of philosophies Director Prow operated under. **Director Prow** responded that research has shown there are four major areas that make a difference in these children's lives. Research indicates that cognitive behavioral therapy and counseling, skill building, education, and family engagement need to be maximized to increase the possibilities of success. They work with the children for 18 months and return them to the community in a far better place than they were prior to that time.

Senator Lodge asked Director Prow if he had an estimate of the number of kids that are currently in the three facilities. **Director Prow** stated that there were 262 children currently being cared for. A report in the late 1990s indicated that at this point in time, there should be approximately 800. **Senator Lodge** questioned if there was a tracking ability to reflect how many leave the juvenile justice system and go into the Department. **Director Prow** indicated that those numbers are gathered on a quarterly basis and the last number was about 15 percent. **Senator Lodge** asked what was being done to increase the number of career technical opportunities for kids in the system. **Director Prow** stated those types of opportunities are being expanded all the time. One of the latest has been the addition of a greenhouse in the largest facility where they grow their own food. Students can work with chefs to gain those skills, and more Microsoft certifications are being added all of the time.

Senator Burgoyne asked Director Prow to share some of his Army experience. **Director Prow** quickly shared his military background. **Senator Burgoyne** mentioned the allegations of abuse that the Department faced several years ago. He asked Director Prow to give an update on where the Department stands on that issue. **Director Prow** stated that those incidents occurred approximately ten years ago and the people involved are gone. Steps have been taken to ensure that such incidents are not repeated. There are cameras in every corner, there is a culture of reporting, and they have individual quality improvement specialists at all three facilities who report independently to Director Prow. They have open door policies and a semi-annual reporting for the kids. The children also have 24 hour access to a hot line if they feel they are in danger. **Senator Burgoyne** stated it appeared to him that at some levels of management within the organization, there were red flags that got overlooked. **Director Prow** said that a Deputy Director had been added to their organization and his primary job is the day-to-day operations of all facilities. This gives another layer to ensure the safety of the kids.

Senator Nye asked what trends were being observed in human trafficking involving juveniles in Idaho. **Director Prow** responded that one of the things they look at is the demographics of the kids. They are always aware of traumatic events in the children's lives. Idaho is four times higher than the national average on the Adverse Childhood Experience Scale.

Senator Grow asked Director Prow why he chose to go into the Juvenile Correction world. **Director Prow** stated that it was because one can really make a positive difference in people's lives.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Melinda Smyser, Administrator of the Office of Drug Policy (ODP), stated that she would give a brief overview of this position. The ODP is the agency responsible for oversight of abuse prevention in Idaho. It is tasked with consulting decision makers regarding the best policies to reduce substance abuse. **Ms. Smyser** shared some of the responsibilities in regards to Idaho statutes: coordinating substance abuse program across the State of Idaho; cooperating and consulting with counties and law enforcement; serve as a repository of agreements, contracts and plans; facilitating the exchange of this information and data across the State; staying current on what is happening across the nation; and developing, creating and promoting Statewide campaigns to reduce or eliminate substance abuse. **Ms. Smyser** expressed concern that there wasn't an organized prevention program in schools throughout the State. She is anxious to work with the State Department of Education (SDE) and the Governor's Office to encourage all schools in Idaho to participate in prevention educational activities across the board.

DISCUSSION: **Senator Lodge** indicated she was concerned that schools are places where kids know who is selling drugs and have access to them. Asked if Ms. Smyser had any plans or suggestions on ways to educate children and their parents about the dangers of vaping. **Ms. Smyser** reiterated that she didn't mean there were no prevention programs in schools, but that there is nothing consistent Statewide. She indicated that there were vaping programs but it was up to the individual school whether they do that through their health programs.

Senator Burgoyne asked how Ms. Smyser viewed tobacco in terms of it being a gateway drug and what her role would be in that respect. **Ms. Smyser** indicated she will support anything the ODP can do to help people be free from substances, smoking and chewing included. **Senator Burgoyne** questioned what kinds of changes could be made to improve the current programs. **Ms. Smyser** replied that working with the SDE to get effective programming to help children learn refusal skills, suicide prevention, prevention in regards to bullying, and working with other agencies to get a program presented each year to educate the students.

Chairman Lakey asked if fentanyl was on their radar. **Ms. Smyser** responded that it was a concern as was the amount of illegal drugs coming in from other states. Heroin is big and meth is coming back.

Senator Nye asked why she wanted to do this job. **Ms. Smyser** stated that it was a very depressing job but she was passionate about it and wanted to help.

S 1004 **Lieutenant Colonel Sheldon Kelley**, Deputy Director of the Idaho State Police (ISP), stated that the purpose of **S 1004** and the Blue Alert System in general is to decrease the chance of an officer being killed in the line of duty, as well as citizens being harmed or killed, by alerting the public of serious threats to law enforcement and public safety. This system was devised in 2015 and named in honor of the two New York City police officers killed in an ambush attack while sitting in their patrol car. The Blue Alert Network works the same way Amber Alerts work. It will be administered by the ISP. Currently 31 states have enacted the Blue Alert System. With the wide success of the Amber Alert System nationwide and here in Idaho, they believe that this system will work and increase public safety. **Senator Anthon** asked if there was a second message that comes out after the first to cancel the alert. **Lt. Col. Kelley** responded there is a message that cancels the alert.

DISCUSSION: Discussion was held among Vice Chairman Lee, Senator Burgoyne, and Lt. Col. Kelley. **Lt. Col. Kelley** stated that to issue the alert there would need to be a missing officer and a suspect for the public to look for. The method used to issue the alert would be identical to the Amber Alerts.

MOTION: **Senator Cheatham** moved to send **S 1004** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion passed by **voice vote**.

S 1005 **Eric Fredericksen**, on behalf of the Criminal Justice Commission, indicated that he had chaired a subcommittee on human trafficking and was given the task of reviewing the current legislation. **S 1005** recognizes the fact that human trafficking is occurring in Idaho and it is appropriate for law enforcement to obtain related training. It also provides a definition for law enforcement to help discern the situations that would arise as to whether they would actually be force, fraud or coercion, and a better articulated definition of sex trafficking as well as other instances that might rise to the level of sex trafficking. The other major change creates an independent offense for human trafficking rather than just an enhancement. There was a portion of the statute that was outdated requiring

a one-time report as to how much human trafficking was occurring in Idaho. They would like said statute removed.

DISCUSSION: **Senator Burgoyne** asked whether or not the provisions of destroying, concealing, removing, confiscating, or possessing any passport, immigration document or other governmental issued identification document, or abusing or threatening abuse of the law or legal process is limited by the language relating to force, fraud, and coercion. **Mr. Frederickksen** responded that was his understanding. **Senator Burgoyne** questioned whether all forms of commercial sexual activity would be illegal and constitute sex trafficking even if there was no force, fraud, or coercion involved. **Mr. Frederickksen** indicated sex trafficking is not a separate, independent offense. It is human trafficking which requires force, fraud, or coercion.

Senator Grow and **Mr. Frederickksen** discussed the reference to punishment "by imprisonment in the state prison for not more than 25 years." **Senator Grow** questioned why a minimum sentencing rather than a maximum was not considered. **Mr. Frederickksen** stated that mandatory minimums has gone through some legislation in the last few years so they decided to keep the legislation as it was written and make the actual changes with regard to human trafficking.

MOTION: **Senator Anthon** moved to send **S 1005** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion.

DISCUSSION: **Vice Chairman Lee, Senators Thayn, Burgoyne, Nye, and Anthon** held a discussion regarding the language contained in **S 1005**. They agreed that the language could have been written more clearly but it was a good bill. The consensus was to let the courts determine how to interpret the legislation over time.

VOICE VOTE: The motion to send **S 1005** to the floor with a **do pass** recommendation carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:35 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

AMENDED AGENDA #1
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Monday, January 28, 2019

SUBJECT	DESCRIPTION	PRESENTER
VOTE ON GUBERNATORIAL APPOINTMENT	Committee Vote on the Appointment of Monty Prow as the Director of Juvenile Corrections	
VOTE ON GUBERNATORIAL APPOINTMENT	Committee Vote on the Appointment of Melinda Smyser as the Administrator of the Office of Drug Policy	
PRESENTATION:	Annual Update regarding Idaho Department of Correction	Josh Tewalt, Director, Department of Correction
PRESENTATION:	Introduction of the Magistrate Court	Senior Judge Barry Wood, Administrative Office of the Courts
PRESENTATION:	Presentation on Pre-trial Justice	Judge James Cawthorn, Ada County, Fourth Judicial District
PRESENTATION:	Presentation on Civil Protection Orders/Related Orders	Judge Jayme Sullivan, Canyon County, Third Judicial District
PRESENTATION:	Presentation on Impact of Amended Penalty Provisions	Judge Victoria Olds, Lewis County, Second Judicial District
PRESENTATION:	Presentation on Guardianship and Monitoring Program and Achievements	Judge David Kress, Bannock and Caribou County, Sixth Judicial District

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey	Sen Grow
Vice Chairman Lee	Sen Cheatham
Sen Lodge	Sen Burgoyne
Sen Anthon	Sen Nye
Sen Thayn	

COMMITTEE SECRETARY

Sharon Pennington
Room: WW48
Phone: 332-1317
email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, January 28, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Senators Lodge, Thayn, Cheatham, Burgoyne, and Nye

ABSENT/ EXCUSED: Vice Chairman Lee, Senators Anthon and Grow

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the meeting of the Senate Judiciary and Rules Committee (Committee) to order at 1:33 p.m.

GUBERNATORIAL APPOINTMENT VOTES: **Senator Lodge** moved to send the Gubernatorial appointment of Monty Prow as Director of the Department of Juvenile Corrections to the floor with recommendation that he be confirmed by the Senate. **Senator Cheatham** seconded the motion. The motion carried by **voice vote**.

Senator Nye moved to send the Gubernatorial appointment of Melinda Smyser as the Administrator of the Office of Drug Policy to the floor with recommendation that she be confirmed by the Senate. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

PRESENTATION: **Annual Update Regarding Idaho Department of Corrections.** Josh Tewalt, Director, Idaho Department of Corrections, presented the annual update. **Mr. Tewalt** stated the agency has three issues of primary concern: staff shortages, prison capacity, and community outcomes. In 2018, probation and parole officers had a 23 percent staff turnover rate. All correctional security staff in prisons and facilities was over 18 percent turnover. Those numbers translate into overtime, creating a difficult work environment.

Mr. Tewalt reported that one of the reasons turnover has taken place is compensation. The Governor's budget recommendation helps address the situation with additional resources for wages. The Change in Employee Compensation Committee report will also assist in more competitive compensation. Another turnover issue is tolerance threshold - being willing to put up with certain behavior for certain compensation. There is a responsibility as an agency to ensure the staff feel valued.

Mr. Tewalt stated that the Idaho Department of Corrections has a safe operating capacity of 7,250 beds. When combined with Correctional Alternative Placement Program, a privately operated prison managed by Management and Training Corporation, that number grows to 7,680 beds. Every inmate over that amount must be housed in county jails or one of the private facilities contracted through the GEO Group in Texas. Those facilities, Karnes County and Eagle Pass Correctional Facility, currently hold 700 inmates. The Department of Corrections was approved to open a community reentry center in Twin Falls, an expansion of the St. Anthony work camp in eastern Idaho, as well as a new community reentry center in Post Falls. Those three facilities will create 400 additional beds.

Mr. Tewalt informed the Committee that 75 percent of those entering the system have failed on felony supervision, either probation or parole, or failed a retained jurisdiction program. Efforts to improve outcomes in the community hinge not just on those tasked with supervision, but also on ensuring they have the tools to keep those on felony supervision engaged in their recovery. The Governor's budget includes resources to provide more supervision by adding 17 additional staff for probation and parole. The community supervision population has risen to over 16,700 on felony supervision. Additionally, the Governor is recommending an increase to support additional tools for our probation and parole officers. Electronic monitoring is an effective tool not only to sanction offenders who may be heading towards recidivism, but also to keep others meaningfully engaged in their supervision.

DISCUSSION: **Senator Burgoyne** questioned what the typical workload might be in regard to probation and parole cases. **Mr. Tewalt** responded that as a general rule for high risk individuals, they would like to see 50 cases at maximum. With high moderates, around 50, and as they move into level one and two classification, those numbers are able to grow. **Chairman Lakey** thanked Mr. Tewalt for his presentation.

PRESENTATION: **Judge Barry Wood**, Senior District Judge, Administrative Office of the Courts, stated that as a Senior District Judge, he currently serves as the Deputy Administrative Director of the Courts. **Judge Wood** explained that he served as a magistrate judge from 1987 to 1994. The magistrate court is a division of the district court. The combination of the district courts and magistrate courts is what is referred to as trial courts, as opposed to the appellate courts, which is the Court of Appeals and the Supreme Court. Idaho currently has 93 magistrate judges and by the end of the legislative session they hope to have 95 (attachment 1).

PRESENTATION: **Judge James Cawthorn**, Ada County, Fourth Judicial District, relayed to the Committee that as a magistrate judge in Ada County, he focuses on pretrial justice, the period in a criminal case between arrest and disposition. The main concern is protecting the community and victims, and protecting and insuring constitutional rights. In the beginning, only eight counties had representation at the initial arraignment. Through additional funding, there are now 41 counties providing representation. In 2014, only 18 counties provided any type of pretrial services; in 2019, that number is now 31 (see attachment 1).

PRESENTATION: **Judge Jayme Sullivan**, Canyon County, Third Judicial District, explained that she is one of nine magistrate judges in Canyon County and has been serving as a magistrate for almost seven years. She is also the President of the Idaho Magistrate Judges Association and her presentation focused on civil protection orders. Civil protection orders are written court orders that prohibit violent or harassing behavior, designed to protect individuals and families from perpetrators. In 1988 Idaho passed the Domestic Violence Crime Prevention Act which expanded the ability of the courts to provide a legal means for victims to prevent future abuse. In 2016 the legislature expanded who could apply for a protection order and on what grounds. A petitioner no longer needed a qualifying relationship and a protection order could be issued upon a preponderance of evidence. The number of filings increased statewide from an average of 4,500 to almost 8,000 (see attachment 1)

DISCUSSION: **Senator Burgoyne** questioned if the courts felt it necessary to sanction frivolous petitions. **Judge Sullivan** stated that policy questions were best left to the legislature, and judges were not sanctioning those types of petitions. **Chairman Lakey** pointed out that expanding who could apply for a protection order, and on what grounds, was intended to provide protection. He asked how they could make sure they were meritorious filings, versus frivolous filings. **Judge Sullivan** informed them there has been a committee from the courts working with Senator Burgoyne to tighten the language. **Chairman Lakey** inquired if in her experience she had seen firearm restrictions as a condition of probation in misdemeanor domestic violence cases. **Judge Sullivan** responded she could not say as it is covered under federal statute.

PRESENTATION: **Judge Victoria Olds**, Lewis County, Second Judicial District, stated she is from Nez Perce, Idaho, but travels to Lewiston and Latah counties also. She handles child protection and juvenile cases, as well as general magistrate cases, but her presentation would cover the impact of amended penalty provisions. **Judge Olds** explained that infractions are civil penalties, there is no incarceration, no ability to arrest, but the process is similar to a misdemeanor so criminal rules of evidence apply. In July 2018, driving without privileges became infractions. Those infractions had a \$150 fine with court costs. The second infraction in five years had a \$300 fine with court costs. The third one in five years became a misdemeanor. Currently there is no license suspension for failure to pay infraction fines. They are no longer able to enforce payment of infractions, and the tax intercept is no longer available (see attachment 1).

PRESENTATION: **Judge David Kress**, Bannock and Caribou County, Sixth Judicial District, gave his presentation on the 2017 statewide implementation of the guardianship and monitoring program. He explained that guardianship cases came in three different types: incapacitated adults, minors that need guardians, and developmentally delayed adults. Incapacitated adults are usually aging people that are having incapacity. Minors need guardians when their parents cannot provide a stable environment, their rights have been terminated, or there is abuse, neglect, or abandonment. Developmentally delayed adults are cases where they had a disability prior to the age of 18, but now have no one to make decisions for them. **Judge Kress** stressed that guardianship is a powerful tool bringing needed protection, but also removes fundamental rights, putting a vulnerable person at risk of abuse, neglect, and exploitation. Guardianship monitoring by the courts is critical to identify abuses and ensure the welfare of vulnerable adults (see attachment 1).

Chairman Lakey thanked all the magistrates for the work they do, and for taking the time to come and speak to the Committee.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:58 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

Machele Hamilton
Assistant Secretary

PRESENTATION BY MAGISTRATE JUDGES

SENATE JUDICIARY & RULES COMMITTEE
JANUARY 28, 2019

HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE
JANUARY 29, 2019



**Idaho Code -
Chapter 22**

**• 1-2201. Magistrate division of
district court – Established.**

Pursuant to the provisions of section 2 of
article V of the Idaho Constitution there
is hereby established in each county of
the state of Idaho a magistrate division of
the district court.

Jurisdiction of Magistrate Judges

Magistrate Judges:

- Hear preliminary hearings to determine whether to bind over and send a defendant to the district court for trial on a felony charge;
- Hear less serious criminal matters, known as misdemeanors;
- Issue warrants of arrest and search warrants;
- Hear infractions when they are contested;
- Preside over Small Claims or "the people's court";
- Handle habeas corpus proceedings, probate cases (wills and estates), juvenile cases, guardianships and conservatorships; child protection, civil protection orders, and domestic relation cases such as divorce, alimony, child support and child custody; and
- Handle civil cases where the amount of money involved does not exceed \$10,000.



Idaho's Judicial Districts



Today's Agenda

- > **Administrative Office of the Courts**
Senior Judge Barry Wood
Introduction
- > **Fourth Judicial District**
Judge James Cawthon (Ada County)
Pre-trial Justice
- > **Third Judicial District**
Judge Jayme Sullivan (Canyon County)
Civil Protection Orders/Related Orders
- > **Second Judicial District**
Judge Victoria Olds (Lewis County)
Impact of Amended Penalty Provisions
- > **Sixth Judicial District**
Judge David Kress (Bannock & Caribou County)
Guardianship and Monitoring Program and Achievements

PRETRIAL JUSTICE

Presentation by Hon. James Cawthon



Civil Protection Orders/Related Orders

Presentation by Hon. Jayme Sullivan



Civil Protection Orders

Civil Protection Orders
New Civil Rights: 1/1/13-1/1/18

	CP2015			CP2016		
Source	CP2015 (CP 2015 or CP 2016)	CP2015 (CP 2015)	Total	CP2016 (CP 2016 or CP 2017)	CP2016 (CP 2016)	Total
A	100	0	100	101	0	101
B	100	0	100	100	0	100
C	1,107	0	1,107	1,110	0	1,110
D	117	0	117	117	0	117
E	100	0	100	100	0	100
F	100	0	100	100	0	100
G	100	0	100	100	0	100
H	100	0	100	100	0	100
I	100	0	100	100	0	100
J	100	0	100	100	0	100
K	100	0	100	100	0	100
L	100	0	100	100	0	100
M	100	0	100	100	0	100
N	100	0	100	100	0	100
O	100	0	100	100	0	100
P	100	0	100	100	0	100
Q	100	0	100	100	0	100
R	100	0	100	100	0	100
S	100	0	100	100	0	100
T	100	0	100	100	0	100
U	100	0	100	100	0	100
V	100	0	100	100	0	100
W	100	0	100	100	0	100
X	100	0	100	100	0	100
Y	100	0	100	100	0	100
Z	100	0	100	100	0	100
AA	100	0	100	100	0	100
AB	100	0	100	100	0	100
AC	100	0	100	100	0	100
AD	100	0	100	100	0	100
AE	100	0	100	100	0	100
AF	100	0	100	100	0	100
AG	100	0	100	100	0	100
AH	100	0	100	100	0	100
AI	100	0	100	100	0	100
AJ	100	0	100	100	0	100
AK	100	0	100	100	0	100
AL	100	0	100	100	0	100
AM	100	0	100	100	0	100
AN	100	0	100	100	0	100
AO	100	0	100	100	0	100
AP	100	0	100	100	0	100
AQ	100	0	100	100	0	100
AR	100	0	100	100	0	100
AS	100	0	100	100	0	100
AT	100	0	100	100	0	100
AU	100	0	100	100	0	100
AV	100	0	100	100	0	100
AW	100	0	100	100	0	100
AX	100	0	100	100	0	100
AY	100	0	100	100	0	100
AZ	100	0	100	100	0	100
BA	100	0	100	100	0	100
BB	100	0	100	100	0	100
BC	100	0	100	100	0	100
BD	100	0	100	100	0	100
BE	100	0	100	100	0	100
BF	100	0	100	100	0	100
BG	100	0	100	100	0	100
BH	100	0	100	100	0	100
BI	100	0	100	100	0	100
BJ	100	0	100	100	0	100
BK	100	0	100	100	0	100
BL	100	0	100	100	0	100
BM	100	0	100	100	0	100
BN	100	0	100	100	0	100
BO	100	0	100	100	0	100
BP	100	0	100	100	0	100
BQ	100	0	100	100	0	100
BR	100	0	100	100	0	100
BS	100	0	100	100	0	100
BT	100	0	100	100	0	100
BU	100	0	100	100	0	100
BV	100	0	100	100	0	100
BW	100	0	100	100	0	100
BX	100	0	100	100	0	100
BY	100	0	100	100	0	100
BZ	100	0	100	100	0	100
CA	100	0	100	100	0	100
CB	100	0	100	100	0	100
CC	100	0	100	100	0	100
CD	100	0	100	100	0	100
CE	100	0	100	100	0	100
CF	100	0	100	100	0	100
CG	100	0	100	100	0	100
CH	100	0	100	100	0	100
CI	100	0	100	100	0	100
CJ	100	0	100	100	0	100
CK	100	0	100	100	0	100
CL	100	0	100	100	0	100
CM	100	0	100	100	0	100
CN	100	0	100	100	0	100
CO	100	0	100	100	0	100
CP	100	0	100	100	0	100
CQ	100	0	100	100	0	100
CR	100	0	100	100	0	100
CS	100	0	100	100	0	100
CT	100	0	100	100	0	100
CU	100	0	100	100	0	100
CV	100	0	100	100	0	100
CW	100	0	100	100	0	100
CX	100	0	100	100	0	100
CY	100	0	100	100	0	100
CZ	100	0	100	100	0	100
DA	100	0	100	100	0	100
DB	100	0	100	100	0	100
DC	100	0	100	100	0	100
DD	100	0	100	100	0	100
DE	100	0	100	100	0	100
DF	100	0	100	100	0	100
DG	100	0	100	100	0	100
DH	100	0	100	100	0	100
DI	100	0	100	100	0	100
DJ	100	0	100	100	0	100
DK	100	0	100	100	0	100
DL	100	0	100	100	0	100
DM	100	0	100	100	0	100
DN	100	0	100	100	0	100
DO	100	0	100	100	0	100
DP	100	0	100	100	0	100
DQ	100	0	100	100	0	100
DR	100	0	100	100	0	100
DS	100	0	100	100	0	100
DT	100	0	100	100	0	100
DU	100	0	100	100	0	100
DV	100	0	100	100	0	100
DW	100	0	100	100	0	100
DX	100	0	100	100	0	100
DY	100	0	100	100	0	100
DZ	100	0	100	100	0	100
EA	100	0	100	100	0	100
EB	100	0	100	100	0	100
EC	100	0	100	100	0	100
ED	100	0	100	100	0	100
EE	100	0	100	100	0	100
EF	100	0	100	100	0	100
EG	100	0	100	100	0	100
EH	100	0	100	100	0	100
EI	100	0	100	100	0	100
EJ	100	0	100	100	0	100
EK	100	0	100	100	0	100
EL	100	0	100	100	0	100
EM	100	0	100	100	0	100
EN	100	0	100	100	0	100
EO	100	0	100	100	0	100
EP	100	0	100	100	0	100
EQ	100	0	100	100	0	100
ER	100	0	100	100	0	100
ES	100	0	100	100	0	100
ET	100	0	100	100	0	100
EU	100	0	100	100	0	100
EV	100	0	100	100	0	100
EW	100	0	100	100	0	100
EX	100	0	100	100	0	100
EY	100	0	100	100	0	100
EZ	100	0	100	100	0	100
FA	100	0	100	100	0	100
FB	100	0	100	100	0	100
FC	100	0	100	100	0	100
FD	100	0	100	100	0	100
FE	100	0	100	100	0	100
FF	100	0	100	100	0	100
FG	100	0	100	100	0	100
FH	100	0	100	100	0	100
FI	100	0	100	100	0	100
FJ	100	0	100	100	0	100
FK	100	0	100	100	0	100
FL	100	0	100	100	0	100
FM	100	0	100	100	0	100
FN	100	0	100	100	0	100
FO	100	0	100	100	0	100
FP	100	0	100	100	0	100
FQ	100	0	100	100	0	100
FR	100	0	100	100	0	100
FS	100	0	100	100	0	100
FT	100	0	100	100	0	100
FU	100	0	100	100	0	100
FV	100	0	100	100	0	100
FW	100	0	100	100	0	100
FX	100	0	100	100	0	100
FY	100	0	100	100	0	100
FZ	100	0	100	100	0	100
GA	100	0	100	100	0	100
GB	100	0	100	100	0	100
GC	100	0	100	100	0	100
GD	100	0	100	100	0	100
GE	100	0	100	100	0	100
GF	100	0	100	100	0	100
GG	100	0	100	100	0	100
GH	100	0	100	100	0	100
GI	100	0	100	100	0	100
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GQ	100	0	100	100	0	100
GR	100	0	100	100	0	100
GS	100	0	100	100	0	100
GT	100	0	100	100	0	100
GU	100	0	100	100	0	100
GV	100	0	100	100	0	100
GW	100	0	100	100	0	100
GX	100	0	100	100	0	100
GY	100	0	100	100	0	100
GZ	100	0	100	100	0	100
HA	100	0	100	100	0	100
HB	100	0	100	100	0	100
HC	100	0	100	100	0	100
HD	100	0	100	100	0	100</

Impact of Amended Penalty Provisions

Presentation by Hon. Victoria Olds



Statutes

- Infractions for DWP & Invalid Driver's license (Idaho Code §§ 18-8001, 49-301)
- Tax intercept for delinquent debts owed to courts (Idaho Code § 1-1624)
- Cash bail forfeiture limitations (Idaho Code § 19-2908)

2018 Statutory Change: No license suspension

- Idaho Code § 49-1505 – Suspension of driver's license and privileges for **failure to pay underlying traffic infraction penalty**
 - Immediate suspension for up to 90 days for nonpayment
 - No reinstatement or renewal if not paid after the 90 days
- Repealed effective July 1, 2018

2017 Statutory Change: Tax Intercept

- Amendments to Idaho Code §1-1624 affected ability to request tax intercepts from the Tax Commission on infractions
- No intercept for delinquent debts of \$50 or less

Cash Bail

- Idaho Code §19-2908* – Cash deposit applied to payment of fines, fees, costs and restitution
 - Imposed in the case
 - Imposed in any other criminal action
 - Surplus refunded to person posting cash bail

* Formerly Idaho Code §19-2923

Guardianship and Monitoring Program and Achievements

2019 Legislative Presentation
Judge David Kress

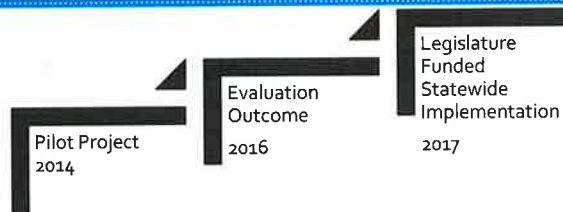


NEED FOR MONITORING

Guardianships are a powerful tool which brings needed protections but also removes fundamental rights, putting vulnerable persons at risk of abuse, neglect and exploitation. Guardianship monitoring by courts is critical to identify abuses thereby ensuring the welfare of these vulnerable individuals.

Guardianship Monitoring: A National Survey of Court Practices—ABRP Public Policy Institute and ABA Commission on Law and Aging

MONITORING PROGRAM TIMELINE



MONITORING OUTCOMES FOR FY2018

Guardianship

- ☐ 4,397 Case Reviewed
- ☐ 995 Required Further Follow up
 - ☐ 378 home visits
 - ☐ 808 phone calls
 - ☐ 287 Hearings

Conservatorship

- ☐ 2,748 Reports Reviewed during the fiscal year
- ☐ \$278 million in combined assets under review

LACK OF GUARDIANS AND CONSERVATORS

This issue impacts everyone in the system, from the person lacking needed supports, to the court staff uncovering abuse but unable to find alternative guardians, to the healthcare systems where patients are waiting in hospital beds until a guardian can be found.



Q&A

The following slides contain more detailed material for your reference

TYPES

Incapacitated Adult

Appointed for an adult who is found incapacitated and the appointment is necessary as a means of providing care and supervision.

Minor

Appointed for a minor when all parental rights have been terminated or the child has been found to be neglected, abused, abandoned, or parents are unable to provide a stable home environment

Developmental Adult

Appointed when the adult is found to have a developmental disability and is unable to manage financial affairs or meet essential requirements for physical health or safety.

DEFINITIONS

Guardian	A person appointed by the court or a will who has responsibilities of a parent over another
Conservator	A person appointed by the court or a will to manage the estate of another
Ward	The person for whom a guardian or conservator is appointed

DEFINITIONS

Incapacity	A legal disability measured by functional limitations that will lead to substantial harm due to an inability to provide for personal needs
Estate	All of the ward's property
Interested Person	Anyone who petitions the court and has an interest in the proceedings

STATEWIDE DATA

Total New Cases Filed in FY2018 2,389	Total Number of Current Guardianships and Conservatorships 8,676
791 Minor Cases	3658 Minor Cases
598 Adult Cases	5018 Adult Cases

AMENDED AGENDA #1
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Wednesday, January 30, 2019

SUBJECT	DESCRIPTION	PRESENTER
<u>RS26545</u>	Relating to Idaho Code 7-1509 by updating the dollar value limit for cases which fall under the small lawsuit criteria.	Barbara Jordan, Idaho Trial Lawyers Association
<u>RS26597</u>	Relating to inmate trainee participation in work training programs offered through the Idaho Correctional Industries (ICI).	Senator Patti Anne Lodge, Idaho State Senate
<u>RS26616</u>	Relating to the addition of one new district judge position with resident chambers in Ada County.	Jason Spillman, Legal Council, Administrative Office of the Courts
<u>RS26617</u>	Relating to the Supreme Court established yearly Magistrate Institute and a two phase New Judge Orientation to provide trainings for new judges. To amend Idaho Code § 1-2206 to allow new magistrates to attend the Magistrate Institute within one year of taking office.	Jason Spillman, Legal Council, Administrative Office of the Courts
<u>S 1023</u>	Relating to the addition of certain employees of the Department of Parks and Recreation to the list of personnel covered under Idaho Code Chapter 9 § 18-915.	Senator Dan Johnson, Idaho State Senate
PRESENTATION	Overview of the Idaho Department of Juvenile Corrections.	Monty Prow, Director of the Idaho Department of Juvenile Corrections
PRESENTATION	Overview of the State Appellate Public Defender's Office.	Eric Fredrickson, State Appellate Public Defender's Office
<u>S 1018</u>	Relating to clarifying the penalty provisions of Idaho Code § 18-2509 only apply to the "preceding section." This section's reference to "this act" should specifically refer to the crime of aiding escape as set forth in Idaho Code § 18-2508.	Jason Spillman, Legal Council, Administrative Office of the Courts
<u>S 1019</u>	Relating to the language of Idaho Code § 5-509 which should be modified to clarify that the "order" and not the "clerk" directs the mailing of a copy of the summons and complaint to defendants with known address.	Jason Spillman, Legal Council, Administrative Office of the Courts

S 1021

Relating to Bail monies. Entry of an order withholding judgment should be added as a triggering event for applying remaining cash bail amounts to pay debts the defendant owes the court. Applying remaining bail monies to debts resulting from other "Infraction" actions against the defendant should also be allowed.

Jason Spillman,
Legal Council,
Administrative Office
of the Courts

S 1022

Relating to the removal of conflicting statutory penalty ranges for juror contempt.

Jason Spillman,
Legal Council,
Administrative Office
of the Courts

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Lee

Sen Lodge

Sen Anthon

Sen Thayn

Sen Grow

Sen Cheatham

Sen Burgoyne

Sen Nye

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, January 30, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Lodge, Anthon, Thayn, Grow, Cheatham, Burgoyne, and Nye

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the meeting of the Senate Judiciary and Rules Committee (Committee) to order at 1:30 p.m.

RS 26545 **Barbara Jordan**, representing the Idaho Trial Lawyers Association, stated that **RS 26545** is a portion of the Small Lawsuit Resolution Act passed by the Idaho Legislature in 2002. This section would allow the parties who still need to go to trial after going through the process to enter into this trial de novo process but it does not increase the monetary amount from \$25,000 to \$35,000.

MOTION: **Senator Lee** moved to send **RS 26545** to print. **Senator Burgoyne** seconded the motion. The motion passed by **voice vote**.

RS 26597 **Senator Lodge**, indicated that **RS 26597** is the Inmate Work Training Program, which is offered through Idaho Correctional Industries. This bill is a result of several years of work. The main goal of the program is to reduce recidivism. Statistics show that 70 percent of those who enter the criminal justice system will be back within the first three years after release. This work training program will create opportunities for inmates to get experience in the workplace atmosphere, the ability to pay the restitution costs, and court costs, and save for re-entry into society. Many problems faced by the inmates are a result of the costs they still have, and consequently they return to their old ways.

MOTION: **Senator Grow** moved to send **RS 26597** to print. **Senator Cheatham** seconded the motion. The motion passed by **voice vote**.

RS 26616 **Jason Spillman**, Legal Counsel for the Administrative Office of the Courts, Idaho Supreme Court, stated that **RS 26616** requests to add a district judge position for the 4th Judicial District. The last time a judge was added was in 2013, and since that time Ada County alone has grown 16 percent and the District Court case loads have increased proportionally. The costs associated with adding this position were included in the Administrative Office of the Court's budget presented to the Joint Finance and Appropriations Committee (JFAC).

Senator Lee asked why this bill was being printed before JFAC action was taken. **Mr. Spillman** responded that JFAC likes to see a bill progress through the process before it makes its recommendation.

MOTION: **Senator Burgoyne** moved to send **RS 26616** to print. **Senator Thayn** seconded the motion. The motion passed by **voice vote**.

RS 26617 **Jason Spillman**, Legal Counsel for the Administrative Office of the Courts, Idaho Supreme Court, stated that **RS 26617** seeks to amend the section of Idaho Code currently requiring magistrate judges to attend a Magistrate Institute before they take office. Within their first year they are subject to four separate trainings. This RS seeks to change the requirement that new magistrates attend the Magistrate Institute within one year of taking the bench.

MOTION: **Senator Anthon** moved to send **RS 26617** to print. **Senator Burgoyne** seconded the motion. The motion passed by **voice vote**.

S 1023 **Senator Dan Johnson**, District 6, indicated that **S 1023** changes the Idaho Code regarding assault and battery of Idaho Department of Parks and Recreation (IDPR) personnel. The director of the IDPR has the right to issue Idaho uniform citations and the authority to delegate that to other employees of IDPR. This is in line with employees of the Idaho Department of Water Resources personnel. A special class is not created. This bill brings these employees into compliance and consistency with the rest of the code. The code also states that if someone is in a uniform or has a badge of some sort, we need to respect that line of authority.

MOTION: **Senator Anthon** moved to send **S 1023** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion. The motion passed by **voice vote**.

PRESENTATION: **Monty Prow**, Director, Idaho Department of Juvenile Corrections (IDJC), stated that the mission of his department was to develop productive citizens and active partnership with communities. The State and the counties are partners working with justice-involved youth and their families. Prevention efforts are the best investment that can be made. Partnership is a cornerstone of juvenile justice in Idaho. To internalize value change, positive community transitions are required. IDJC funds are distributed to counties and local communities to support effective programming and a reintegration initiative which result in fewer commitments. Data supports treating youth in the least restrictive environment as possible. If youth are committed, research indicates that there are four strategies that contribute to them being successful. They include career technical education, independent living skills, education, and family engagement. The youth who do require the services of the IDJC have mental health issues that are three times greater than the general population. Trauma needs are four times greater than the general population and 47 percent of committed youth have a need for an Individual Education Program (IEP). IDJC has a good record of outcomes upon the youth's release. Ninety-seven percent of youth feel they have the skills necessary to establish positive relations in the community. **Director Prow** showed a video of the inside workings of one of their facilities. You may see it at <https://www.youtube.com/watch?v=mX13djE-tjY>. Those involved in working with the youth have the attitude of validating the juveniles that they are doing the best they can, but pushing and motivating them to do better (see Attachment 1).

DISCUSSION: **Vice Chairman Lee** and **Director Prow** held a discussion regarding recidivism rates and their measurement questions. **Director Prow** reiterated that nationally, there is no definition for recidivism. He indicated that Idaho has a 12-month post release from custody follow-up. He pointed out that they still need more help in the area of community transition support. **Director Prow** assured the Committee that their tracking system is data-driven and whatever information is needed could be provided.

PRESENTATION: **Eric Frederickson**, State Appellate Public Defender's Office (Office), explained that the Office was created for the purpose of providing relief to overburdened counties, providing competent counsel, and to avoid paying high hourly rates to employ independent counsel. The right to assistance of counsel in an appeal from a felony conviction is guaranteed by the United States and Idaho Constitutions. **Mr. Frederickson** discussed the types of cases his office works with and pointed out that workload is not measured by the number of cases, but by the complexity of cases. He also discussed the active death penalty litigation in Idaho and indicated that any first degree murder case up to a certain point in time could become a death penalty case (see Attachment 2).

S 1018 **Jason Spillman**, Legal Counsel to the Administrative Office of the Courts, Idaho Supreme Court, stated that **S 1018** relates to contradictory language in the body of Idaho Code § 18-2509. It seems to expand application of the stated penalties to any violation of "this act." The act includes several crimes other than aiding escape with differing penalties. This amendment will clarify that the penalty provisions of § 18-2508, and not to the other prisoner escape crimes in Title 18, Chapter 25."

DISCUSSION: **Senator Burgoyne** commented that it might be time for classifications as either misdemeanors or felonies to be considered. He suggested that this may be an opportunity to put this in the 14th Order and do something about the sanction that is involved. **Mr. Frederickson** pointed out that there are two different levels of crime included in **S 1018**: an officer assisting in the escape, and a private person aiding escape, both of which can rise to the level of felonies.

Senator Lodge questioned some of the language of the bill. She asked if some of the words are even proper words in today's vernacular. **Senator Lodge** suggested **S 1018** should be held and the language cleaned up before sending it to the floor.

MOTION: **Senator Anthon** moved to send **S 1018** to the 14th Order of Business for possible amendment. **Senator Nye** seconded the motion.

DISCUSSION: **Senator Thayne** stated that he would be voting against the motion. **Senator Nye** explained that his reason for the second was to clean this up and strike the \$25 minimum. **Vice Chairman Lee** said that she supported the motion because it could be done very quickly and not create substantive changes. **Chairman Lakey** moved to send **S 1018** to the 14th Order of Business.

VOICE VOTE: The motion to send **S 1018** to the 14th Order of Business passed by **voice vote**. **Senator Thayne** requested that he be recorded as voting nay.

S 1019 **Jason Spillman**, Legal Counsel to the Administrative Office of the Courts, Idaho Supreme Court, stated that **S 1019** seeks to allow the court to order service of civil summons by publication in a newspaper in certain circumstances. Additionally, a section of this bill seeks to set forth specific requirements for what should be in the order directing such service by publication. If the defendant's address is known, then a copy of the summons and complaint must be mailed to that address. The current statute requires the clerk to direct such mailing. The suggestion is to change that reference to a clerk to the order directing service so that the order will be directing the mailing as well.

DISCUSSION: **Senator Anthon** asked if the mailing was going to the post office with the assumption that they would try to locate the appropriate address for the summons and complaint to be delivered. **Mr. Spillman** responded that he did not believe that was the intention. He stated that he thought it referred to the manner in which the mailing would be accomplished. **Senator Burgoyne** suggested that the language was outdated. His opinion was that the intention of it was to mail it, pay the postage, and let the office receive it and send it through the postal system.

- MOTION:** **Senator Nye** moved to send **S 1019** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion passed by **voice vote**.
- S 1021** **Jason Spillman**, Legal Counsel to the Administrative Office of the Courts, Idaho Supreme Court, explained that often after a defendant is found guilty, there will be remaining cash deposited with the Court as well as bail money. The current form of the statute does not allow those monies to be applied in situations where judgment has been withheld, even though it was based upon a finding of guilt. The recommended fix would be allowing application of remaining bail monies in situations where judgement has been withheld or the debts to the court are the result of infractions.
- DISCUSSION:** **Senator Thayne** asked if there was a difference between a cash deposit and a bail bondsman. **Mr. Spillman** answered that there was a difference. He explained that bail bondsmen do not actually place any money with the court, whereas a defendant, relative, or anyone else could post an actual cash amount to achieve the defendant's release. Bail bondsmen sign an assurity agreement that works like an insurance contract. He indicated that there could be some confusion in a situation where a defendant thinks they may be getting some money back but the Legislature has enacted a statute requires the defendant to satisfy his/her debts. **Chairman Lakey** reiterated that these are already monies that are owed to the courts, and in some cases the counties. An unintended consequence of this bill is when the money that is owed to the court is given back to the individual who has the judgment, and the county has to try to collect it back.
- MOTION:** **Senator Anthon** moved to send **S 1021** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion passed by **voice vote**.
- S 1022** **Jason Spillman**, Legal Counsel to the Administrative Office of the Courts, Idaho Supreme Court, stated that **S 1022** seeks to resolve conflict in penalties for not participating in jury service. There are two separate penalty provisions for jurors that are found in contempt for failing to participate in their jury service. The fix would be to repeal the older of the two sections and keep the most recent one.
- MOTION:** **Senator Nye** moved to send **S 1022** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion passed by **voice vote**.
- ADJOURNED:** There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:40 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary



1-30-19

Engaging Families

IDJC continues to prioritize family engagement as an integral part of our treatment philosophy. We strive to build collaborative relationships in which families are equal partners in the success of their children. This year, IDJC developed the following tools to help better engage families: **1.** Video tours of all three state facilities to educate families and community partners. **2.** An informational video on the Rule 19 screening process to familiarize families and stakeholders with the process prior to screening. **3.** A new aftercare smartphone app for youth returning to the community which allows youth instant access to their Relapse Prevention Plans as well as support in times of crisis. **4.** Videoconferencing for family visits, counseling, and monthly meetings to engage families who live far from where their children are in treatment. **5.** A shuttle for families unable to travel on their own to visit their children from the Nampa-Boise area to the St. Anthony facility in Southeast Idaho.



JJDPa Compliance

Idaho was determined to be out of compliance with the Deinstitutionalization of Status Offenders (DSO) requirement of the Juvenile Justice and Delinquency Prevention Act (JJDPa) for federal fiscal year 2018. The DSO requirement provides that juveniles who have committed an offense that is illegal only due to their status as a juvenile (i.e., runaway, truancy, incorrigible, etc.) shall not be placed in secure confinement. Placing status offenders in detention can have serious negative impacts on their mental and physical health, education, and employment, and can increase their risk of engaging in future delinquent behavior. Because of noncompliance, Idaho was penalized 20% of its formula grant funds; the remaining funds must be reallocated to address the DSO requirement. Current data suggests Idaho will be out of compliance with the DSO requirement for 2018, and will likely remain out of compliance each year unless changes are made system-wide.

IDJC and the Idaho Juvenile Justice Commission recommend a three-pronged approach to meet needs of juvenile status offenders: **1.** Continue to develop and sustain community-based alternatives. **2.** Review and revise statutes and rules related to the detainment of status offenders. **3.** Ongoing evidence-based training for stakeholders.

Juvenile Probation Standards

IDJC is assisting in updating juvenile probation standards to ensure the facilitation of positive outcomes for juveniles, families, victims, and the community; to reduce recidivism; and to reduce liability. A work group was convened by the Juvenile Training Council consisting of juvenile probation officers throughout the state representing various department sizes and geographic areas. It is anticipated that the revised juvenile probation standards will be reviewed by communities and county commissioners in 2019 and go before the legislature in the 2020 session.

IDAHO JUVENILE POPULATION

2017 Census Idaho 10-17 Yrs. Old 203,818

CY17 Juvenile Arrests 7,907

CFY17 Juvenile Detention Bookings 5,095

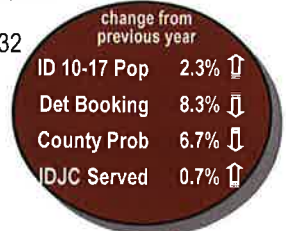
2017 County Probation 1-Day Count 4,932

SFY18 Juveniles Served in Communities 1,932

SFY18 IDJC Juveniles Served 447

SFY18 IDJC Average Daily Count 281

*Juveniles served locally with IDJC state and federal funds (CIP + MHP + REP + MIL)



Juvenile Correctional Center Average Costs

The total average cost per day [to provide services] at a Level 4 juvenile correctional center is: **\$273.97**

The Department continually looks at ways to reduce lengths of custody while ensuring community protection.

AMOUNT	DESCRIPTION
\$119.89	Program
\$49.93	Educational Services
\$24.29	Security
\$20.14	Medical Services
\$19.64	Food Services
\$18.53	Administration
\$16.58	Maintenance
\$3.73	Laundry/Clothing
\$1.24	Janitorial/Housekeeping

Note: Based on SFY18 average costs

DID YOU KNOW? IDJC Demographics 2018

Gender: Male - 83% Female - 17%

Race/Ethnicity: W - 68% H - 16% B - 4% AI - 6% Other - 6%

Average Age: 17.2 years old

Crime: Property- 34% Person- 31% Sex Offense- 20% Other- 15%

Crime Level: Felony - 54% Misdemeanor - 46%

Mental Health Diagnosis: 49%

Substance Use Disorders: 65% (drug and/or alcohol)

Co-occurring Disorders: 31% (substance use disorder and mental health diagnoses)

FY18 Avg. Length of Custody: 18.7 months

FY18 Recidivism Rate: 14%

FY18 Recidivism Rate: 29%

data date: 10.12.2018

Receiving Wage Post-Release: 75%
Reading Scores Increased: 86%
Math Scores Increased: 90%

Office of The State Appellate Public Defender

I.C. § 19-868: Statement of Legislative Intent in creating the SAPD: The cost of legal representation for indigent defendants on appeal "is an extraordinary burden on the counties...."

- ▶ to reduce that burden
- ▶ to provide competent counsel
- ▶ avoid paying high hourly rates to independent counsel

Capital Crimes Defense Fund

- ▶ Created in 1998 by I.C. §19-863A
- ▶ CCDF acts like an insurance program
 - ▶ Counties pay an annual premium based upon population
 - ▶ The counties pay a \$10K deductible per case, then the fund covers the additional defense costs
- ▶ As of December 2016, all 44 counties participate
- ▶ CCDF is managed by a 7 member Board of Directors elected by the counties
- ▶ Counties that participate in the fund also receive the services of the SAPD as defined in I.C. §19-868, et. seq.

The Right To Counsel

- ▶ The right to effective assistance of counsel in an appeal of right from a felony conviction is guaranteed by the United States and Idaho Constitutions.
- ▶ The right to counsel in a post-conviction action is provided by Idaho statute and is discretionary in felony cases and mandatory in capital cases.

SAPD Staff

► Administrative

- Eric D. Fredericksen, State Appellate Public Defender, 1 office administrator, 1 part-time runner

► Capital Litigation Unit

- 2 lead attorneys (1 is Chief of CLU), 1 staff attorney, 1 mitigation specialist, 1 investigator, 1 support staff

► Appellate Unit

- 1 Chief of AU, 11 staff attorneys, 3 support staff, 1 receptionist

► Total: 24 Full-Time Employees, 1 Part-Time Employee

Appellate Unit Case Types

► Direct Appeals

- An appeal from the felony conviction itself or grant of motion in a felony case on appeal by the State of Idaho
- Review of what occurred in court, on the record
- Reviewing whether the district court did its job consistently with the law
- Review of some unpreserved Constitutional violations

► Habeas Corpus Appeals

- Generally limited to claims regarding conditions of confinement
- Some claims regarding parole processes

► Post-Conviction Appeals I.C. §19-4901, et. seq.

- Civil Action in which the former defendant sues the State asserting specific errors
- Allows the petitioner to provide evidence of things that occurred out of court and off the record
- Proper vehicle to raise claims of Ineffective Assistance of Counsel

Appellate Unit Caseload vs. Workload

- | | |
|---|--|
| ▶ Caseload measures the number of cases opened by the SAPD within a given fiscal year. The opened date is the date the Notice of Appeal is filed. | ▶ Workload measures the average weighted value of case work handled by an Appellate Unit attorney. |
| ▶ FY2015: 702 | ▶ FY2015: 49.70 |
| ▶ FY2016: 568 | ▶ FY2016: 52.80 |
| ▶ FY2017: 537 | ▶ FY2017: 42.00 |
| ▶ FY2018: 604 | ▶ FY2018: 53.30 |

Capital Unit Case Types

- | | |
|--|--|
| ▶ Post-Conviction Proceedings in District Court | ▶ Consolidated Appeal |
| ▶ Filing of Petition for Relief | ▶ Includes both the Direct Appeal and the Post-Conviction Appeal |
| ▶ Investigation | ▶ Interlocutory Appeals in Post-Conviction |
| ▶ Summary Dismissal Proceedings | |
| ▶ Evidentiary Hearings | |

Active Death Penalty Litigation - Idaho

- ▶ SAPD has 3 active cases in its Capital Litigation Unit:
 - ▶ Timothy Dunlap – On remand from Supreme Court partial grant of Post Conviction Relief.
 - ▶ Erick Virgil Hall (Hall II) – Pending Evidentiary Hearing in Post Conviction.
 - ▶ Jonathan David Renfro – Death Verdict 11/6/17.
- ▶ 30 active First Degree Murder cases in Idaho's district courts.
- ▶ Death Notice filed in 6 cases.

Commissions and Committees

- Idaho Criminal Justice Commission
- Public Defense Commission
- Idaho Grant Council
- Idaho Supreme Court Technology Committee
- Idaho Criminal Rules Committee
- Idaho Rules of Evidence Committee
- Idaho Appellate Rules Committee
- Idaho Rules of Evidence Committee



"There can be no equal justice where the kind of trial a man gets depends on the amount of money he has."

Griffin v. Illinois, 351 U.S. 12 (1956)

AGENDA
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Monday, February 04, 2019

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT HEARING	Committee Consideration of the Appointment of Mike H. Matthews to the Commission on Pardons and Parole	Mike H. Matthews
GUBERNATORIAL APPOINTMENT HEARING	Committee Consideration of the Appointment of Colonel Kedrick Wills as Director of the Idaho State Police	Colonel Kedrick Wills
GUBERNATORIAL APPOINTMENT HEARING	Committee Consideration of the Appointment of Ashley Dowell as Executive Director to the Commission of Pardons and Parole	Ashley Dowell
GUBERNATORIAL APPOINTMENT HEARING	Committee Consideration of the Appointment of Jeffrey A. Betts to the Sexual Offender Management Board	Jeffrey A. Betts
<u>S 1003</u>	Relating to Human Trafficking - The Addition of a new Section of Idaho Code to provide for Diversion for a Minor Victim of Human Trafficking, To provide certain conditions for Diversion and to provide an Affirmative Defense	Eric D.Frederickson, State Appellate Public Defender
<u>H 30</u>	Relating to Criminal Defendants - To Provide for Certain Notification and for the Appointment of Designation of an Evaluation Committee and to Make Technical Corrections	Blake Brumfield, Program Manager, DD Crisis Prevention & Court Services
<u>H 31</u>	Relating to Divorce - To Revise a Provision Regarding when a Final Decree shall be Entered	Jason Spillman, Legal Counsel Administrative Office of the Courts
<u>H 32</u>	Relating to Motor Vehicles - To Provide for Substance Use Disorders Service Providers and Substance Use Disorder Assessments and to make Technical Corrections	Jason Spillman, Legal Counsel Administrative Office of the Courts
<u>H 33</u>	Relating to Search Warrants - To Provide that an Oral Statement shall be Transcribed if Requested and to Make Technical Corrections	Jason Spillman, Legal Counsel Administrative Office of the Courts
<u>H 34</u>	Relating to Sexual Offender Registration - To Revise and Correct a term used in 18-6608	Jason Spillman, Legal Counsel Administrative Office of the Courts

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Lee

Sen Lodge

Sen Anthon

Sen Thayn

Sen Grow

Sen Cheatham

Sen Burgoyne

Sen Nye

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, February 04, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Lodge, Anthon, Thayn, Grow, Cheatham, Burgoyne, and Nye

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the Senate Judiciary and Rules Committee (Committee) to order at 1:32 p.m.

GUBERNATORIAL APPOINTMENT HEARING: **Mike H. Matthews**, under consideration for his re-appointment to the Commission on Pardons and Parole (Commission), introduced himself to the Committee. He described his personal, educational, and work background and stood for questions.

DISCUSSION: **Chairman Lakey** asked Mr. Matthews to discuss the issue of recidivism and his thoughts on potential changes that can be made to the process to help with that issue. **Mr. Matthews** replied that individuals often come back with new crimes, and he discussed how the new diversion program has the potential to help. He also emphasized the importance of community service, supervision, and mental health services in successfully re-integrating a parolee.

Vice Chairman Lee asked Mr. Matthews if he had seen an improvement in moving through cases and asked if he would like to express anything in terms of resources, support, or compensation. **Mr. Matthews** discussed the turnaround rate for parole commissioners to read and review cases, and noted that if they are short-staffed, the Commission's work load increases. He expressed the importance of having sufficient time to prepare, especially for hearings.

Senator Thayn inquired about the relationship between successful re-integration and parolees having a well-defined plan to go forward. **Mr. Matthews** described the three-part approach for a successful re-integration plan, which involved 1.) having a place to live; 2.) having a job; and 3.) defining the after care they need. After a question from Senator Grow, **Mr. Matthews** indicated that he tried not to let his work affect him at home. He stressed that the Commission tried to make educated decisions, but sometimes those people go on to commit further crimes.

GUBERNATORIAL APPOINTMENT HEARING: **Colonel Kedrick Wills**, under consideration for his appointment as the Director of the Idaho State Police (ISP), introduced himself to the Committee. He stated that he has been with the ISP for over 23 years and was before the Committee a year ago as well. Following a question from Senator Lee, **Colonel Wills** expressed his admiration for the dedication and intelligence throughout the ISP. He talked about the importance of getting ideas and input from ground-level people, as well as the up hill battle they face with the drug situation.

DISCUSSION: **Senator Burgoyne** wondered what the biggest challenges for ISP were and how the legislature could help. **Colonel Wills** replied that their biggest challenge was maintaining quality customer service with the high level of population growth.

Colonel Wills and **Senator Anthon** discussed the need for more state troopers in rural areas where response times were longer. **Senator Lodge** asked about the progress of Idaho Peace Officer Standards and Training (POST), to which **Colonel Wills** answered that the new administrator was a solid leader and that POST was in a good position. He advised that the Governor's recommendation for funding would help them get where they needed to be.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Ashley Dowell, under consideration for her appointment as Executive Director to the Commission of Pardons and Parole (Commission), introduced herself to the Committee. She described her background in corrections and mental health and stated she was a Meridian native. **Chairman Lakey** asked for clarification on the parole plan discussed earlier by Mr. Matthews. **Ms. Dowell** indicated that such a plan is reviewed by Probation and Parole as well as by the Commissioners during a parole hearing.

Vice Chairman Lee asked Ms. Dowell to highlight what changes or improvements she would bring to the position. **Ms. Dowell** remarked she would like to maintain strong relationships within the criminal justice community and conduct further education about the function of parole, which she claims needs to be re-branded. She would also like to repair some relationships that may have been strained during justice reinvestment. In response to another question from Senator Lee, **Ms. Dowell** emphasized the importance of a parolee's relationship with their parole officer. If the parole officer has a large caseload, a good relationship may be difficult.

Senator Burgoyne asked Ms. Dowell to discuss parolee supervision, the "revolving door" concept, and civil commitments. **Ms. Dowell** again stressed the importance of good relationships with parole officers. She doesn't believe that recidivism can be completely eradicated; people often fall back into old habits. Some improvements to supervision could include more community resources and recognizing contributing factors earlier, especially for juveniles. **Ms. Dowell** also said that a process for civil commitments already existed.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Jeffrey A. Betts, under consideration for re-appointment to the Sexual Offender Management Board (Board), introduced himself to the Committee. He discussed working with juvenile sexual offenders and described the differences between working with them and adult offenders. **Mr. Betts** also discussed recidivism rates between adults and juveniles and improvements made to the assessment process.

Senator Lodge asked Mr. Betts to expound on the process of identifying risk levels. **Mr. Betts** claimed this was one of the nine original tasks set to the Board. Redeveloping standards for state providers and having quality evaluations are imperative.

S 1003

Eric D. Frederickson, State Appellate Public Defender, presented this bill: Relating to Human Trafficking—the Addition of a new Section of Idaho Code to provide for Diversion for a Minor Victim of Human Trafficking, to provide certain conditions for Diversion and to provide an Affirmative Defense. **Mr. Frederickson** explained this was the second piece of legislation to come from the Idaho Criminal Justice Commission, which he represented. The intent of the bill concerns safe harbor protection of victims of human trafficking as well as allowing diversion, at the prosecutor's discretion, where the offense is a direct and immediate result of human trafficking. He emphasized the diversion program is a contractual agreement.

Senator Anthon asked for clarification on the list in Idaho Code §18-301(2), which **Mr. Frederickson** answered was intended to identify offenses without a direct victim.

DISCUSSION: A discussion ensued between Mr. Frederickson and Senators Anthon, Burgoyne, Lee, and Thayn about certain language in the bill, particularly relating to minor versus adult victims, mandatory placement in facilities, and prosecutor discretion. **Mr. Frederickson** illustrated that victims can be placed in safe houses but are not required to stay, and that sometimes a prosecutor will decide not to divert or even charge a victim; however, the victim, whether a child or adult, has the right to counsel. There was some concern from Senators Lee and Thayn that language in the bill didn't reflect what Mr. Frederickson was describing. **Senator Burgoyne** suggested adding more flexibility to the language.

Senator Thayn and **Mr. Frederickson** discussed the danger of a victim returning to a handler or human trafficker who may be waiting outside if they were released. **Mr. Frederickson** explained why that may happen and how the diversion program could help avoid it.

TESTIMONY: **Jennifer Zielinski**, Executive Director of the Idaho Anti-Trafficking Coalition, Inc., submitted written testimony in support of **S 1003** (see Attachment 1).

Senator Thayn stated that due to the language of the bill, he could not support it at this time.

MOTION: **Vice Chairman Lee** moved to send **S 1003** to the 14th Order of Business for possible amendment. **Senator Burgoyne** seconded the motion.

DISCUSSION: **Senator Anthon** and **Chairman Lakey** expressed their appreciation of the work that went into the bill and their hope that language issues would be resolved during amendment. **Senator Burgoyne** believed language should give prosecutors more discretion.

VOICE VOTE The motion to send **S 1003** to the 14th Order of Business for possible amendment passed by **voice vote**.

Chairman Lakey stated that the remaining agenda items would be addressed during the meeting on February 6, 2019.

ADJOURNED: Seeing no further business at this time, **Chairman Lakey** adjourned the meeting at 3:03 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

Jessica Goodwin
Assistant Clerk

2-4-19

**IDAHO ANTI- TRAFFICKING
COALITION, INC**

Senator Todd Lakey, Chair and Committee Members

Jennifer Zielinski
Executive Director
Idaho Anti-Trafficking Coalition

February 4, 2019

As the Executive Director of the Idaho Anti-Trafficking Coalition, I would like to state that I am in full support of Senate Bill 1003.

Safe harbor laws were developed by states to address inconsistencies with how children that are exploited for commercial sex are treated. Under federal law, a child under eighteen that is induced into providing commercial sex is a victim of trafficking and must be treated as such. State laws criminalize adults that have sex with children under statutory rape laws, however these laws were not consistently applied in cases where the adult purchased sex. The result was children, recognized under both state and federal law as victims of a crime, were arrested and convicted of prostitution. Safe harbor laws are intended to address the inconsistent treatment of children and ensure that these victims were provided with services.

Due to the increase in awareness and Idaho's local and state agencies who report a lack of services, supports, and safe housing for victims of sex trafficking, our organization is opening the first safe house in Boise for minor victims of sex trafficking, Solace House, due to open April 2019. In addition to providing a safe place to heal and restore, we are pursuing a clinic in Boise that will offer all forms of mental health services and trauma care to meet the needs of anyone suspected, at risk, or already identified as a victim of sex trafficking. We are working in collaboration with agencies and organizations throughout the Treasure Valley to ensure quality and a comprehensive system of care. Our mission is to work alongside the community to provide awareness, education, services, and safe housing for victims of human trafficking.

Please reach out for further questions or follow up, as this is a critical epidemic that calls for the entire state to get involved in.

Sincerely,

Jennifer Zielinski
Executive Director
Jenniferz@cdinet.us
208-649-1590

policy@polarisproject.org

4481 N. Dresden Pl, Garden City, ID 83714

Phone: 208-649-1580

Email: info.atcidaho@gmail.com

Website: ATCidaho.org

IDAHO
ANTI-TRAFFICKING COALITION

AGENDA
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Wednesday, February 06, 2019

SUBJECT	DESCRIPTION	PRESENTER
VOTE ON GUBERNATORIAL APPOINTMENT	Committee vote on the Appointment of Mike H. Matthews to the Commission on Pardons and Parole.	
VOTE ON GUBERNATORIAL APPOINTMENT	Committee vote on the Appointment of Colonel Kedrick Wills as Director of the Idaho State Police.	
VOTE ON GUBERNATORIAL APPOINTMENT	Committee vote on the Appointment of Ashley Dowell as Executive Director to the Commission of Pardons and Parole.	
VOTE ON GUBERNATORIAL APPOINTMENT	Committee vote on the Appointment of Jeffrey A. Betts to the Sexual Offender Management Board.	
<u>S 1042</u>	Relating to the Supreme Court established yearly Magistrate Institute and two phase New Judge Orientation to provide trainings for new judges. To amend Idaho Code §1-2206 to allow new magistrates to attend the Magistrate Institute within one year of taking office.	Jason Slade Spillman, Legal Council, Administrative Office of the Courts
<u>S 1043</u>	Relating to the addition of one new district judge position with resident chambers in Ada County.	Jason Slade Spillman, Legal Council, Administrative Office of the Courts
PRESENTATION	Overview of the Idaho State Police Forensic Services	Matthew Gamette, ISP Forensic Services Director
PRESENTATION	Introduction of the District Court	Senior Judge Barry Wood, Administrative Office of the Courts
PRESENTATION	Presentation on the need for additional judges in the Fourth Judicial District	Administrative District Judge Melissa Moody, Fourth Judicial District
PRESENTATION	Presentation on Court Reports	Administrative District Judge Eric Wildman, Fifth Judicial District
PRESENTATION	Presentation on Problem-Solving Courts in Idaho	District Judge Jeff Brudie, Second Judicial District
PRESENTATION	Presentation on Wave 3 Implementation and Future Buildout of Odyssey	Administrative District Judge Mitchell Brown, Sixth Judicial District

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Lee

Sen Lodge

Sen Anthon

Sen Thayn

Sen Grow

Sen Cheatham

Sen Burgoyne

Sen Nye

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, February 06, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Senators Lodge, Anthon, Thayn, Grow, Cheatham, Burgoyne, and Nye

**ABSENT/
EXCUSED:** Vice Chairman Lee

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the meeting of the Senate Judiciary and Rules Committee (Committee) to order at 1:33 p.m.

**GUBERNATORIAL
APPOINTMENT VOTE:** **Senator Anthon** moved to send the Gubernatorial appointment of Mike H. Matthews to the Commission of Pardons and Parole to the floor with a recommendation that he be confirmed by the Senate. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL
APPOINTMENT VOTE:** **Senator Lodge** moved to send the Gubernatorial appointment of Colonel Kedrick Wills as Director of the Idaho State Police to the floor with recommendation that he be confirmed by the Senate. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL
APPOINTMENT VOTE:** **Senator Burgoyne** moved to send the Gubernatorial appointment of Ashley Dowell as Executive Director to the Commission of Pardons and Parole to the floor with recommendation that she be confirmed by the Senate. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL
APPOINTMENT VOTE:** **Senator Anthon** moved to send the Gubernatorial appointment of Jeffrey A. Betts to the Sexual Offender Management Board to the floor with recommendation that he be confirmed by the Senate. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

S 1042 **Jason Spillman**, Legal Counsel, Administrative Office of the Courts, presented **S 1042** relating to the addition of one new district judge position with resident chambers in Ada County. **Mr. Spillman** explained this amendment seeks to change the training requirement for new magistrates. The current statute requires magistrates attend the Magistrate Institute (Institute) before taking the bench. Prior to a 2015 amendment to this statute, magistrates only needed a high school diploma or General Education Diploma (GED). This amendment will allow new magistrates to attend the Institute within one year of taking office. **Mr. Spillman** requested the Committee approve **S 1042** with a do pass recommendation.

MOTION: **Senator Grow** moved to send **S 1042** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

Chairman Lakey announced that **S 1043** would be moved to the end of the agenda.

PRESENTATION:

Matthew Gamette, Idaho State Police Forensic Services Director (ISPFS), reported on the Idaho Sexual Assault Kit Tracking System (IKTS). **Mr. Gamette** provided background on the various Idaho labs and discussed the average turnaround times for processing kits. He explained that Idaho was the first state to implement a full kit tracking program and specified that IKTS was shared freely with public entities. He outlined what the program tracked, including kits received, time to lab, and testing time, and then discussed the challenges ISPFS has faced with the program.

Mr. Gamette also outlined the program's successes since implementation, particularly regarding new testing methods which have expedited the process. In addition, updated management principles have increased efficiency and output. He overviewed the efforts ISPFS has made to provide sexual assault nurse examiners (SANE) and sexual assault response teams (SART) throughout the State, especially in rural areas. The goal is to train 250 nurses for the SANE position and have a SART coordinator in every community. In addition, the Idaho Sexual Assault Kit Initiative (ISAKI) published the first Idaho sexual assault response guide. **Mr. Gamette** ended by describing ISPFS's upcoming goals, including: lowering turnaround time for all kits to 30 days; offering SANE training throughout the state; and continuing working with ISAKI (see Attachment 1).

Senator Burgoyne asked if Mr. Gamette anticipated new legislation coming forward regarding the 30-day turnaround and other challenges. **Mr. Gamette** replied that he did anticipate legislation being introduced this session.

PRESENTATION:

Senior Judge Barry Wood, Administrative Office of the Courts, described the State's court structure and introduced the remaining presenting judges (see Attachment 2 for all District Judge presentations).

PRESENTATION:

Administrative District Judge Melissa Moody, Fourth Judicial District, stated her intent to ask the legislature to fund two new magistrate positions and one new district judge position—all for Ada County. **Judge Moody** highlighted the excessive case load for both magistrates and district judges, which is above the state average. The last legislatively funded district judge was in 2012. She emphasized that if these positions are funded, they will still not have what they need.

PRESENTATION:

Administrative District Judge Eric Wildman, Fifth Judicial District, discussed the importance of court reporters. He explained the record and the vital position a court reporter plays in keeping it. He noted the training requirements for the position and indicated the State has difficulty retaining and recruiting them. The Fifth Judicial District has offset their deficiencies by borrowing reporters from other counties, hiring free-lance reporters, and in some courts, using a remote recording program. **Judge Wildman** explained the disadvantages of these alternatives and emphasized the efficiency of an in-person reporter. He also explained why recording audio and later transcribing is problematic. He ended by outlining the Idaho Supreme Court's plan to address the recruitment problem, which includes increasing compensation and developing a workforce using dual credit and online education opportunities.

PRESENTATION:

District Judge Jeff Brudie, Second Judicial District, discussed the history and current status of Problem-Solving Courts (PSCs) in Idaho. He described the types of PSCs, their distribution throughout the state, and noted that they are not assigned courts; judges volunteer for them. The success of a PSC is correlated to the court's team members, especially treatment providers and probation officers. **Judge Brudie** explained the problems participants face, participant requirements, and the various lengths of programs. He also discussed the effectiveness of PSCs in terms of recidivism rates and program failure.

PRESENTATION:

Administrative District Judge Mitchell Brown, Sixth Judicial District, presented on the Wave 3 implementation and buildout of the new Idaho Judiciary iCourt (Odyssey) electronic case management system. He described how the previous system became obsolete and gave an overview of the first two waves of implementation of Odyssey. Twin Falls was the pilot county for Odyssey, and Ada County adopted it in 2016; Odyssey and mandatory e-filing were subsequently rolled out throughout the remainder of Idaho for the third wave. **Judge Brown** noted the immediate successes of the system and the improvement from the previous system. He outlined the next steps for Odyssey, which includes implementing the first update.

Chairman Lakey announced that **S 1043** would be addressed during the next scheduled meeting. He asked the presenting judges to stand for questions.

DISCUSSION:

Senator Burgoyne asked Judge Moody to reiterate the average case load for judges compared to the state average in her district. **Judge Moody** provided the numbers with a disclaimer that they were a work in progress.

Senator Anthon asked Judge Moody if her district had the necessary facilities to handle the positions for which she was requesting funding. **Judge Moody** replied that, despite the already limited space, they would make room.

Chairman Lakey asked Judge Brudie to clarify the difference between child protection courts and young adult drug courts, which **Judge Brudie** explained. He asked Judge Brudie for clarification on PSCs being volunteer courts and discussed a case study with him. **Senator Burgoyne** asked Judge Brudie if specialty courts being in the community and having greater availability to local social services contributed to their success. **Judge Brudie** confirmed that having a good court team with mental health and vocational rehabilitation resources was helpful.

ADJOURNED:

There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:59 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

Jessica Goodwin
Assistant Secretary

Attachment 1

ISP FORENSIC SERVICES UPDATE ON SEXUAL ASSAULT KIT TRACKING



Matthew Gamette M.S. C.P.M.
Laboratory System Director

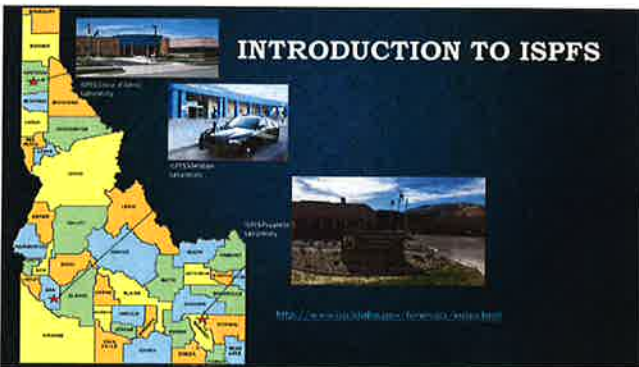
matthew.gamette@isp.idaho.gov
Cell 208-608-2301 Office 208-884-7217

OVERVIEW

- Organization of ISPFS
- Turnaround Times
- Annual Legislative Report Data
- Idaho Sexual Assault Kit Initiative
- Looking Forward



INTRODUCTION TO ISPFS



ACCREDITATION

- First accreditation 1987
- First ISO 17025:2005 accreditation in 2007
- Rec accreditation every 4 years
- Just switched accrediting bodies (competitive contract)
- Current accreditation with A2LA through 2021
- Over 500 management and analytical requirements
- Yearly internal audit and external assessment of each lab



INTRODUCTION TO ISPFS



Jane Park
ISP Director
310 W. Silver City St.
Coeur d'Alene, ID 83814
Phone: 208.835.8971



Amy Schaefer
ISP Administrator
100 South 1st St.
Coeur d'Alene, ID 83814
Phone: 208.835.8971

Service	Coeur d'Alene	Mullan	Twinsburg
Controlled Substances Analysis	X	X	X
Crime Scene General	X	X	X
Crime Scene Classification	X	X	X
Latent/Alone Evidence Analysis	X		
Forensic Footprints/NIJ/NP	X		
Forensic Toxicology	X		
DNA		X	
Biological Screening		X	
DNA Database		X	
Latent Print Processing		X	
Latent Print Comparison		X	
Blood Alcohol	X	X	X
Breath Alcohol Instrumentation		X	
Cannabis	X	X	X
Drugs in Blood	X		
Drugs in Urine	X		



Heidi Korte
Lab Manager
201 S. Lewis
Coeur d'Alene, ID 83814
Phone: 208.835.8971

LABORATORY TURNAROUND TIMES:

ISPFS Evidence Analysis Turnaround
(Please contact the lab if a specific case needs a quicker turnaround time to meet court requirements)

Request #	Request Date	Category	Requester	Requester Name	Requester Phone	Requester Email	Requester Address	Requester City	Requester State	Requester Zip	Requester County	Requester Agency	Requester Type	Requester Status	Requester Turnaround	Requester Turnaround Days
30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30	30
9	< 30	6	120	208	208	10	14	21	N/A	70	34	31				
43	30	49	239	495	648	8	63	75	N/A	328	74	54				
4	0	3	288	348	227	0	2	6	N/A	105	11	7				

Notes: As of 12/31/2018

IDAHO SEXUAL ASSAULT KIT TRACKING SYSTEM (IKTS)

In January of 2017 Idaho became the first state to fully implement a state-wide sexual assault kit tracking system. This tracking system provides more public accountability and transparency, allows victims to see the state taking this issue seriously, provides better direction and tools to law enforcement, provides more resources to the state forensic laboratory, and ultimately provides a better criminal justice system.

<http://onerep.idaho.gov/ikts/assaultkittracking>

IDAHO SEXUAL ASSAULT KIT TRACKING SYSTEM (IKTS)

• Training

- In 2018, ISPFS hosted live internet based training, in-person onsite training, and interactive telephone training and refresher sessions
- The Sexual Assault Kit Tracking Administrator will continue to provide introductory and ongoing training to all IKTS users (medical, law enforcement, prosecutor's office)

• IKTS Usage & Sharing

- 34 average monthly visitors to the public site and 20-35 daily logins from medical, law enforcement, laboratory, prosecutor users
- Inquiry on IKTS software received from 25 states, 3 major cities, and 5 prominent national organizations.
- North Carolina went live in 2018 with our IKTS software
- ISPFS is currently working with the Puerto Rican government to implement IKTS
- ~ 17 publications in Idaho media

BY THE NUMBERS:

Calendar Year 2018	
Kits Purchased by ISPFS	640 kits
Kits Distributed by ISPFS	479 kits
Kits Collected	473 kits
Average time to lab	17 days
Kits not submitted per state statute	78 kits
Kits submitted to the lab	620 kits
Completed lab testing at ISPFS	371 kits
Current kits pending at the lab	689 kits
Oldest kit in the ISPFS Lab	495 days

CHALLENGES IDENTIFIED:

- Time restraint of Legislative Report does not allow for complete 2018 kit reporting
- Adjustments to 2016 audit
- 30 day timeframe for law enforcement to submit to the lab
- No statutory requirement for medical facilities or reviews
- Communication by administrator with IKTS users
- LE interpreting Idaho Statute
- IKTS Administrator position turnover



VALIDATIONS

- Validation of new instrumentation
- DNA mixture analysis software
- Biology Y-screening
- DNA Y-STRs
- Lean Six Sigma



SANE/SART COORDINATOR:

- Nurse Administrator/Trainer
- Federal Grant Funding
 - SANE/SART Position for 4 years
 - Introductory SANE training
 - Equipment for at least 25 collection centers
- Position at ISPFS
- Support SANE 250 initiative
- Provide ongoing introductory and live exercises
- Coordination of SART programs



THE IDAHO SEXUAL ASSAULT KIT INITIATIVE (ISAKI)

- This voluntary policy advisory group consists of state and local law enforcement representatives of all types and sizes
 - Forensic laboratory procedures (RFFS)
 - Forensic
 - Public defender
 - Judge
 - Crime representatives
 - Victim advocates
 - Health Services for Domestic Violence and Victim Assistance
 - Local Children Against Sexual and Domestic Violence
 - Victim compensation fund administrators
 - Sexual assault nurse examiners (SANEs)
 - Physicians
 - Biology administrators
 - State legislator
 - Forensic identification
 - Department of Health and Welfare
 - Victim Witness Coordinators
- Issues addressed by ISAKI this year:
 - Payment for medical forensic exams
 - Increased sexual assault training for law enforcement
 - Published the first "Idaho Sexual Assault Response Guidelines" this year. This publication discusses medical, laboratory, law enforcement, and prosecutorial response to sexual assault in Idaho
 - Order of protection for sexual assault victims from their attacker
 - A "test all" kits initiative

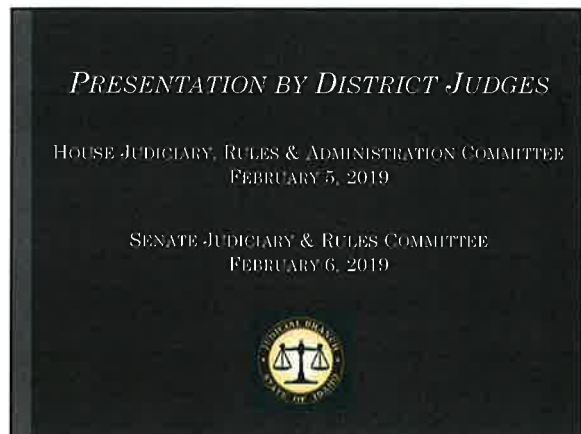
ISAKI MEMBERS

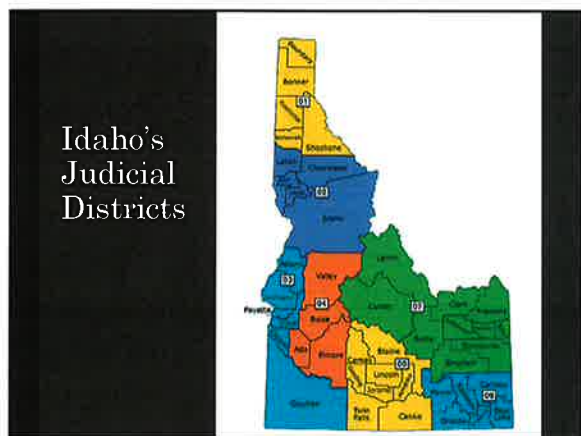
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|---|--|
| <ul style="list-style-type: none"> • Matthew Shumate - ISPFS Laboratory Services Director (Chair) • Cynthia Peltier - ISPFS Administrator & RFFS Quality Manager • Christine Wright - ISPFS Training Area & Bio-Precisive Administrator • Robert Neeley - ISPFS Training Area Manager • Anne Winkler - ISPFS LANC/CHS Coordinator • Mary Charles-Spencer - ISPFS Police Services Mgr. • Jean Fisher - Ada County Prosecutor • Quyen Leitch - Teton County County Prosecutor • Denise Mitchell - Blaine City Police Department Behavioral Sergeant • Rachel Ferguson - Cassia County Sheriff's Office Victim Advocate • Rebecca Bailey - Ada County Judge • Kirby Miller - Cassia County Sheriff's Office Adult and Juvenile Services • Cynthia Conley - AD MAN (MCH) Forensic MCH Team Coordinator in Ada County • Kelly Bailey - ID Bureau Bureau Chief of Crime - Murders • Jennifer Lindquist - Spokane Attorney • Lisa Birk - Spokane County Sheriff's Office Child Care's Attorney • Representative, Idaho Women - Idaho Legislature • Virginia Kilgus - Idaho Women's Association • Chris Kinsbury - Idaho State Police (Teton Falls Police Chief) • Dr. Matt Goe - Ada County Sheriff's Office | <ul style="list-style-type: none"> • Joseph Hadden - Blaine Police Department Forensic • Melissa Macdonald - AD MAN (MCH) Forensic MCH Team Coordinator in Blaine County • Tim Lerner - Idaho Hospital Association • Tamara Taylor - Idaho Sheriff's Association • Cheryl Allen - Idaho Judicial Commission (Idaho Women's Compensation) • Jeff Wilson - Cassia County Police Department (COP Chair) • Cindy Olson - Moscow Police Department (Moscow at Idaho) • Donella Brown - Human Resources & Budget, Idaho State, Idaho Department of Agriculture • Dr. Anna King - Assistant Professor, Boise State University Department of Criminal Justice • Derek Cummings - Ada County Public Defender's Office • Jason Sullivan - Idaho Sheriff's Office • Anna Sullivan - Idaho Sheriff's Office Adult and Juvenile Services • Eric Brinkman - Blaine Police Department Forensic • Gary Crow - Blaine Police Department Administrator • John Brinkman - Idaho State Police (State and Planning) • Ray Thompson - Idaho State Police (State and Planning) • Ray Brinkman - Blaine Police Department (State and Planning) • Rebecca Kinsbury - Teton Sheriff's Office • Janet Leitch - Ada County Sheriff's Office Coordinator |
|---|--|

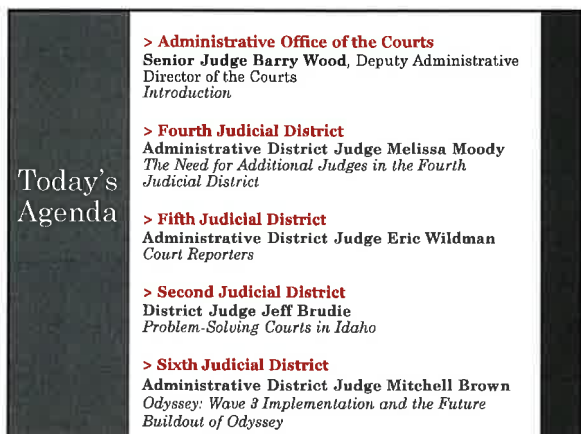
NOW AND INTO THE FUTURE:

- All turnaround times under 30 days
- New Biology/DNA Examiners
- SANE/SART Coordinator - Hired on 1/28/19!
- SANE Training throughout Idaho
- Establish SARTs throughout Idaho
- Continue the work of ISAKI









Judge Harris

Judge McCreary-John

Judge Blaker

Judge McHenry

Judge Ellis

Judge Taylor

Judge Goodmon

Judge O'Neil

Judge McHenry

Judge Marshall

Judge O'Neil

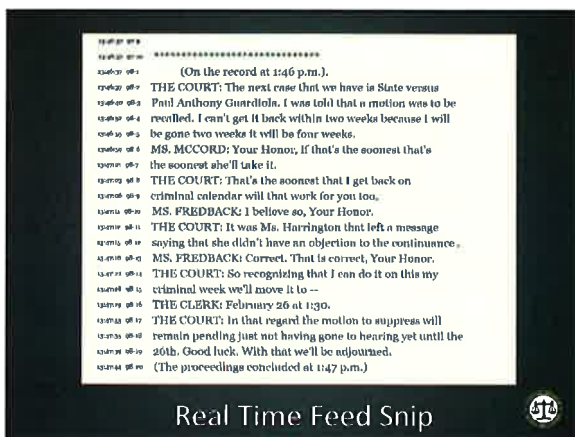
Judge Williams

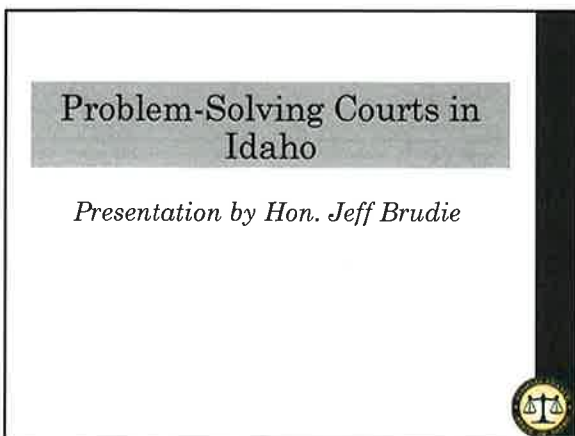
Juvenile, Civil,
CP, Criminal

[illegible]

Phase 22			
Wesley Glen	CR0116-32743	Review	ROR
Kevin Christensen	CR0117-41731	Review	ROR
Radford Zelle	CRPE-16-9542	Review	ROR
Andrews Beurt	CR0116-41873/CRPE-16-4040	Review	ROR
Alison Allen	CR0117-29572	Review	ROR
Husain Haidine	CR0116-32908	Review	ROR
Marion-Cecile Dumas	CR0116-27990	Review	ROR
John Tyler	CR0116-8544	Review	ROR
James Smith	CR0116-18428/287512	Review	ROR
Robert Smith	CR0117-29971/1993	Review	ROR
Hight Jennifer	CR0117-75710	Review	ROR
Deborah Kane	CR0116-29636	Review	ROR
Cunningham Rita	CR0116-16408	Review	ROR
Bozler Quinn	CR0117-49554	Review	ROR
Smith Tyler	CR0117-29639/39	Review	ROR
Phase 23			
Anthony Michael	CR0117-48885	Review	ROR
Walter Ben	CR0118-41213/71730718	Review	ROR
Shirley Michelle	CR0117-95935	Review	ROR
Shelton Terry	CR0117-95935	Review	ROR
Shirley Cindy	CR0117-95935/71873226	Review	ROR
Royal Estates	CR0118-94323	Review	ROR
Ross Brittany	CR0117-73376/7371734720	Review	ROR
Rebecca Shomon	CR0118-95000	Review	ROR
Phelan Jason	CR0118-10023	Review	ROR
Phelan Sarah	CR0118-41408/CRPE-16-2281	Review	ROR
Norman Nathan	CR0117-46420	Review	ROR
Morgan Kevin	CR0118-1450	Review	ROR
Monik Renee	CR0117-18788/29975	Review	ROR
Monik Michelle	CRPE-16-1318	Review	ROR
Robert Kuba	CR0118-12047	Review	ROR
Robert Nicole	CR0117-107498	Review	ROR
Johnson Austin	CR0118-17869	Review	ROR
Lee Lynn	CR0117-14518/28187	Review	ROR
Jeff Brady	CR0117-18034	Review	ROR
James Taylor	CR0118-18102/20565	Review	ROR
Hayes Dustin	CR0117-18068/2812	Review	ROR
Rebecca Dick	CR0118-10713/CRPE-16-5186	Review	ROR
Parmer Hannah	CR0118-118978	Review	ROR
Quinn Jack	CR0118-21182/28121450	Review	ROR
Dawson Luke	CR0118-79337/28104	Review	ROR
Cowland Andrew	CR0117-76327	Review	ROR
Condit Doreity	CR0117-42312/44425	Review	ROR
Bailey Tasha	CR0118-76327	Review	ROR
Barker Michael	CR0117-29623/28148	Review	ROR
Ellis Elmad	CR0117-148854	Review	ROR
Adams Kimberly	CR0118-28193/3483	Review	ROR
Lacharissa Schum	CR0117-42312	Review	ROR







TYPES OF COURTS


- Pre-Sentence
- Post-Sentence
- Probation Violation
- Hybrid

PARTICIPATION

- Initial Hurdles
 - Housing
 - Identification
- Employment
- Random Urinalysis
- Treatment (Group and Individual)
- AA/NA Meetings
- Sobriety
- Frequent Court Appearances

PHASES AND PROGRAM LENGTH

- Most PSCs have at least 4 phases which consist of demonstrable achievements in order to progress. Some PSCs have a 5th phase.
- As participants progress through each phase, requirements are lessened. They come to court less, need less treatment, less restrictions on curfew etc.
- While each phase has certain timeframe expectations, the overall program length is at least 12 months in most cases. Again, it can differ by court type based on needs and characteristics. Felony Drug Court average is about 18 months to graduate while Mental Health Court is slightly longer with 20 to 24 months.



Odyssey


Where We Are and Where We Are Headed

Honorable Judge Mitchell Brown



The foundation and frame are complete

Statewide Deployment is Complete



Initial Activities

- ✓ Build out statewide solution – 2014

Pilot and Early Adopter


- ✓ Pilot County: Twin Falls – June 22, 2015
- ✓ Early Adopter: Ada County – August 8, 2016

Statewide Roll-Out

- ✓ Wave 1 (12 counties) – October 10, 2017
- ✓ Wave 2 (14 counties) – April 9, 2018
- ✓ Appellate Courts – June 4, 2018
- ✓ Wave 3 (16 counties) – October 9, 2018

Electronic Filing

- ✓ Mandatory e-filing for all counties



Odyssey Jury

- Opt-in solution for any county
- Automated text reminders to jurors
- Scan juror ID cards to facilitate faster processing
- Interactive seating charts that allow judges to view juror information



Project is underway with pilot county deployment to occur later this calendar year



Data & Analytics

- Integrated data analytics platform with Odyssey
 - Streamlines access to data
 - Simplifies ability to analyze and visualize court data
- Provides ability to easily share data
 - Present data to public users, or
 - Securely share data with other government partners



Idaho Courts are actively piloting this new solution



Attorney Manager

- Case management solution for prosecuting attorney and/or public defender offices
 - Case processing
 - Calendaring
 - Electronic filing
- Provides autonomy and confidentiality, yet integrates with courts to exchange data
- Current status
 - Implemented in Ada County
 - Working to deploy in Bonneville County PA by April 2019



Exploring statewide interest and possible project with other PA and PD offices



AMENDED AGENDA #1
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Friday, February 08, 2019

SUBJECT	DESCRIPTION	PRESENTER
<u>RS26819</u>	Relating to Law Enforcement Agents - To prohibit engagement in motorcycle profiling	Senator Lee Heider, Idaho State Senate
<u>RS26546C1</u>	Relating to Bounty Hunters - To set, for the profession of bounty hunting, guidelines which do not currently exist	Michael Kane, Idaho Sheriffs Association
<u>H 31</u>	Relating to Divorce - To revise a position regarding when a final decree shall be entered	Jason Spillman, Legal Council Administrative Office of the Courts
<u>H 32</u>	Relating to Motor Vehicles - To provide for substance use disorders, service providers and substance use disorder assessments and to make technical corrections	Jason Spillman, Legal Council Administrative Office of the Courts
<u>H 33</u>	Relating to Search Warrants - To provide that an oral statement shall be transcribed if requested and to make technical corrections	Jason Spillman, Legal Council Administrative Office of the Courts
<u>H 34</u>	Relating to Sexual Offender Registration - To revise and correct a term used in 18-6608	Jason Spillman, Legal Council Administrative Office of the Courts
<u>S 1043</u>	Relating to the addition of one new district judge position with resident chambers in Ada County	Jason Spillman, Legal Council Administrative Office of the Courts

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Lee

Sen Lodge

Sen Anthon

Sen Thayn

Sen Grow

Sen Cheatham

Sen Burgoyne

Sen Nye

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Friday, February 08, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Lodge, Anthon, Thayn, Grow, Cheatham, and Burgoyne

ABSENT/ EXCUSED: Senator Nye

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the Senate Judiciary and Rules Committee (Committee) to order at 1:30 p.m.

RS 26819 **Relating to Law Enforcement Agents** - To prohibit engagement in motorcycle profiling. **Senator Lee Heider**, District 24, presented **RS 26819**, relating to Law Enforcement agents - To prohibit engagement in motorcycle profiling. He stated there is no reason for the motorcycling element of our society to worry about being stopped by state or local law enforcement agents just because they ride a motorcycle or wear motorcycle-related paraphernalia. He indicated law enforcement should make stops based on violation of laws, and not based on a person's appearance.

DISCUSSION: **Senator Grow** noted that there are no penalties stated in the proposed legislation and asked how violations would be handled. **Senator Heider** advised that an individual who feels they have been profiled can address the matter with the officer, or his commanding staff. Violations would be handled within the law enforcement department.

Senator Burgoyne commented that when this legislation comes back for a hearing on the merits, he would like information on the legal ramifications of violating the statute. In particular, if the stop results in criminal charges, and the person receiving the citation indicates a possible profiling violation, could this result in dismissal of the criminal charges.

Vice Chairman Lee indicated she would like to know why the language is limiting profiling to "motorcycle," and does not include other types of profiling.

Senator Anthon commented that perhaps the definition language could be changed slightly to cover the situation where an officer notices someone because of what they are wearing, and then pulls them over for doing something that is inappropriate.

MOTION: **Senator Anthon** moved to send **RS 26819** to print. **Vice Chairman Lee** seconded the motion. The motion carried by **voice vote**.

RS 26546C1 **Relating to Bail Enforcement Agents** - To set, for Bail Enforcement Agents, guidelines which do not currently exist. **Michael Kane**, representing the Idaho Sheriff's Association (ISA), presented **RS 26546C1** relating to bounty hunters—to set guidelines which do not currently exist. **Mr. Kane** stated that this bill has been before the Committee in past sessions, and this is an attempt at compromise between the bail agent communities and other stakeholders. He indicated changes from previous versions of this legislation include: 1.) the required age for a bail enforcement agent is 18 rather than 21; 2.) identification of the bail enforcement agent is limited to a badge; and 3.) penalties for violation have been reduced. **Mr. Kane** stated that ISA believes this is a really good bill for public safety.

DISCUSSION: **Senator Burgoyne** commented that he appreciated the compromising nature of this legislation. He indicated that when the bill comes back for hearing, he would appreciate knowing whether prosecution can be assigned to another county if a prosecuting attorney has a conflict. He also would like information on the statute of limitations set forth in Idaho Code § 19-403, as well as info on the effect of permitting people to be bail agents who may have criminal records.

MOTION: **Senator Thayn** moved to send **RS 26546C1** to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

H 31 **Relating to Divorce** - To revise a position regarding when a final decree shall be entered. **Jason Spillman**, Legal Counsel, Administrative Office of the Courts, stated that this is a clean up bill, and deals with the court's efforts to establish time frames in seven-day increments. He indicated that this legislation amends Idaho Code § 32-716, which establishes the cooling-off period for divorce actions in Idaho, during which the court can neither enter a final decree nor conduct a hearing on the merits. He advised the current statute requires 20 days and this legislation would amend that to 21 days.

DISCUSSION: In response to a question from Senator Thayn, **Mr. Spillman** advised that generally a time period begins the day after the filing, and includes all holidays and weekends. Provided, however, if the final day falls on a weekend or holiday, the period is extended to the next day that is not a Saturday, Sunday, or legal holiday.

MOTION: **Senator Burgoyne** moved to send **H 31** to the floor with a **do pass** recommendation. **Vice Chairman Lee** seconded the motion. The motion carried by **voice vote**. Senator Thayn will sponsor the bill on the floor.

H 32 **Relating to Motor Vehicles** - To provide for substance use disorders, service providers and substance use disorder assessments and to make technical corrections. **Mr. Spillman** stated that this legislation is basically a language update in order to align the statute with the established language that is used in the field, and used in the Department of Health and Welfare's (DHW) regulations. He indicated that Idaho Code § 18-8005, subsection 11, states that persons who are convicted of driving under the influence are required, before sentencing, to obtain an alcohol evaluation conducted by an alcohol evaluation facility that is approved by the DHW. This bill changes the term "alcohol evaluation facility" to "substance use disorders service providers." **Mr. Spillman** indicated there is an additional reference in statute to "substance abuse assessment," and this bill changes that to "substance use disorder" to align with the DHW regulations.

MOTION: **Senator Anthon** moved to send **H 32** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**. Senator Lodge will sponsor the bill on the floor.

Relating to Search Warrants - To provide that an oral statement shall be transcribed if requested and to make technical corrections. **Mr. Spillman** stated that **H 33** deals with the process related to oral affidavits that are submitted to the court in support of an application for a search warrant. He indicated that normally such affidavits are submitted in writing; however, there are some emergency circumstances, such as when an officer makes a request for a warrant for a blood draw from a driver who has been involved in an accident. **Mr. Spillman** advised that Idaho Code § 19-4404 sets forth the process whereby an officer can provide an oral statement to the court that lays out what basis there is for the search warrant. The current statute requires that those statements be not only recorded, but they also must be transcribed. He indicated there is an obvious need for the recording that preserves the record of what the court based its decision on, and the statute requires that recording be filed with the court. However, oftentimes the transcripts are not used by anyone. This bill will maintain the party's right to have that transcript, but requires them to request it, thereby saving the court money by only transcribing those transcripts that are requested.

Mr. Spillman indicated that he has had some feedback that defense attorneys have a hard time getting this transcript and he submits that may be a process to be addressed by the court. He explained that often when an oral affidavit is accepted, the court does not have a case opened and this is a pre-filing activity. He believes these recordings are stored in an administrative area of the court, and the court does not have sufficient information to uniformly log them; however, the statute maintains the defense attorney's right to obtain a transcript.

DISCUSSION:

Vice Chairman Lee noted that the Committee had previously heard testimony from Judge Wildman about the importance of having written transcripts in court proceedings, and it is surprising to see this "as needed" request aimed at cost savings. **Mr. Spillman** advised that Judge Wildman's comments were directed at reporting generally at the district court level, and this legislation deals with a pre-filing at the magistrate court level on an emergency basis, where they cannot get a court reporter in the room. **Vice Chairman Lee** indicated she could see that it might be burdensome for the court to transcribe every recording requesting a search warrant, but noted the value to the defense attorney in being able to peruse that information quickly. **Mr. Spillman** indicated that any information obtained from the transcript would likely be used in a motion to suppress, which would happen later in a case. He explained that the current process is for the court to prepare these transcripts in the order that they receive the recordings. He stated this could even speed up the process, as a recording could be pulled when requested and immediately transcribed.

Senator Burgoyne asked if the \$12,000 transcribing cost **Mr. Spillman** quoted for Ada County is an annual cost. **Mr. Spillman** advised it is. **Senator Burgoyne** inquired whether the magistrate judge on duty goes into the courthouse for purposes of placing an officer under oath and recording an oral statement, or if the magistrate does this with a phone recording. **Mr. Spillman** responded it is handled both ways.

TESTIMONY: **Mike French**, a private defense attorney in Boise, appeared on behalf of the Idaho Association of Criminal Defense Attorneys (IACDA), and spoke in opposition to **H 33**. She stated that the fact that the Idaho Prosecuting Attorneys Association (IPAA) and the 1994 Legislature recognized that the entire application for a search warrant proceeding should be both recorded and transcribed, is an indicator of the importance of the process in protecting fundamental constitutional rights: the right to be free from unreasonable search and seizure which is the bedrock of democracy. She indicated IACDA feels the transcription of a recording requesting a search warrant provides an added layer that ensures both the affidavit and the magistrate's authorization of the search are preserved without question. **Ms. French** indicated that pursuant to Rule 16 of the Idaho Rules of Criminal Procedure, defense attorneys are requesting the transcript of a recording in initial discovery requests directed to the prosecuting attorney. However, they are being met with responses to those discovery request advising a copy of the transcript can be obtained from the court. She stated this then becomes a hunt to find the right combination of terms that might identify the recording. This time delay is a factor for her as she tries to be as efficient as possible in defending her clients. If she has those documents right away, she can make a determination on whether to cut losses or go to trial (for full comments, see attachment 1).

DISCUSSION: Committee members held a discussion with Ms. French and Mr. Spillman regarding the lack of a uniform process for storing these recordings, and the importance to a busy public defender of quickly getting a copy of the affidavit. They discussed the time, process, and cost that is required to obtain a written transcript of an affidavit for a search warrant from the court. It was noted that this affidavit is actually a statement of a prosecution witness, and the discovery rules state that this should be provided to the defense by the prosecuting attorney upon request. It was also noted that these recordings are obtained ex parte when a defendant is not present, so those records should be preserved for their constitutional importance. Technology advances were discussed and the resulting problem of dealing with different types of records. It was pointed out that Idaho Code § 19-4406 requires that the magistrate's verbal authorization be "recorded and transcribed," and this change to Idaho Code § 19-4404 would be inconsistent.

Ms. French stated she disagreed with the Statement of Purpose for **H 33** indicating that these transcripts are infrequently used. She surmised that part of the reason many transcripts go unclaimed may be that busy public defenders simply do not have the time to do the extra work to pursue them. She advised that rather than spend the time to locate these recordings and obtain transcripts from the court, she chooses to file a motion to compel. This puts it into the record, and shows her diligence in attempting to get these documents that are key to a constitutional defense.

Mr. Spillman apologized that he was not aware of the inconsistency between this legislation and the language of Idaho Code § 19-4406. He stated there does seem to be an issue between the defense bar and the prosecution regarding the process of obtaining these transcripts. He indicated that having the statute clarified by indicating either the prosecution or defense may request the transcript from the court may resolve some of the problem.

MOTION: **Senator Anthon** moved to hold **H 33** in Committee. **Senator Burgoyne** seconded the motion.

SUBSTITUTE MOTION: **Vice Chairman Lee** moved to send **H 33** to the floor with a **do pass** recommendation. The substitute motion failed for lack of a second.

DISCUSSION: **Senator Anthon** spoke in support of his motion stating that he appreciates the Idaho Supreme Court engaging in this kind of cleanup, but has some concerns regarding creating an inconsistency in the statute. He also stated, with technology advances, he is concerned about how the different types of media will be stored. He feels there are collateral issues to be addressed, and does not feel good at this point in moving ahead with this bill.

Vice Chairman Lee mentioned that with technology advances and the court being essentially all electronic now, the issue of how we are keeping audio recordings should be addressed. She stated this is a good start.

Senator Burgoyne stated that when this legislation was drafted it probably looked to the court and Mr. Spillman like a technical correction; after the legislative history has been presented, he feels the 1994 Legislature made a policy decision, and with this bill, that is designed to make a technical correction, we would be overturning a policy choice. He has concerns about these discovery disputes wasting time and money, and would encourage the defense and prosecutorial bars to take a look at these issues and see if there is not a way to work it out.

Chairman Lakey indicated that he sees this as a process that needs to be worked out between the courts, the prosecution, and the defense bar. It may take additional verbage in standard discovery requests, or a special discovery request, but it should not take a motion to compel to get the transcribed affidavit. He stated he would like to see more discussion on this proposed legislation.

**ORIGINAL
MOTION VOICE
VOTE:**

The motion to hold **H 33** carried by **voice vote**.

H 34

Relating to Sexual Offender Registration - To revise and correct a term used in Idaho Code § 18-6608. **Mr. Spillman** stated this is another language cleanup bill. In 2018, the term "sexual" was removed from the title of the crime of forcible penetration by use of a foreign object as set forth in Idaho Code § 18-6608. Despite this change, the sex offender registration statutes continue to refer to this crime by its former name. This bill will simply update those references to refer to the new title.

MOTION:

Vice Chairman Lee moved to send **H 34** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**. Senator Cheatham will sponsor the bill on the floor.

S 1043

Relating to the addition of one new district judge position with resident chambers in Ada County. **Mr. Spillman** advised that **S 1043** seeks to amend Idaho Code § 1-805 which establishes the number of District judges for the Fourth District. The Fourth District comprises Ada, Elmore, Valley, and Boise counties and currently has 11 district judges. This proposed bill would amend that to 12 district judges. An amendment in 2013 was the last time a district judge was added for this district. Since that time Ada County has seen rapid growth in population, and this has placed a resulting stress on the court system in the form of increased case loads. **Mr. Spillman** indicated that this request is part of the court's budget being considered by the Joint Finance and Appropriations Committee (JFAC). In response to a question at the print hearing from Vice Chairman Lee, he advised that former JFAC Chairs have indicated that any request should be added into the budget to be considered. He also stated that even with this additional Judge the court estimates they will still be a half judge short of where they were in 2013.

S 1043

Senator Grow moved to send **S 1043** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**. Senator Grow will sponsor the bill on the floor.

ADJOURNED:

There being no further business, **Chairman Lakey** adjourned the meeting at 2:51 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

Lois Bencken
Assistant

1-8-19
Mtg.

HB33--Applications for search warrants

- My name is Mike French, and I'm a member of the Idaho Association of Criminal Defense Attorneys; I'm here to voice our opposition to HB33
- Prosecutor, law enforcement officer, and judge (and perhaps others) talking about a defendant's case without the defendant or defendant's attorney present
 - Implicates fundamental privacy rights under federal 4th Amendment and Idaho Constitution Article I, Section 17, which specifically mentions the affidavit: The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue without probable cause shown by affidavit, particularly describing the place to be searched and the person or thing to be seized.
- In 1994, the Idaho Prosecuting Attorneys Association presented then SB1468—to add a new section to the penal code to allow applications for search warrants to be made by an oral affidavit over the telephone:
 - That new section, 19-4404, in recognition of the importance of the affidavit, specified that the oral affidavit must be “recorded and transcribed.”

- The IPAA's 1994 bill simultaneously proposed amending section 19-4406, to allow for the magistrate to authorize law enforcement to sign the magistrate's name on a duplicate original warrant, which the magistrate would then later sign himself
 - In a meeting of this committee on February 28, 1994, opposition to the IPAA bill was voiced, specifically that the section of the bill amending 19-4406, regarding the magistrate's authorization of law enforcement to sign on the magistrate's behalf, was not, in the language of the original bill, required to be recorded and transcribed
 - The bill was sent to the floor and amended to address this criticism, and today, 19-4406 requires that the magistrate's verbal authorization be "recorded and transcribed."
- So, what we are left with in HB33, first off, is an inconsistency that really doesn't make any sense; 19-4406 requires the magistrate's verbal authorization of a law enforcement officer to sign a search warrant on his behalf is required to be recorded and transcribed; HB33 would amend 19-4404 to say that the portion of the recording just before this authorization—the affidavit establishing probable cause—does not need to be transcribed; that seems to be an inconsistency that will not really meet the stated cost

savings purpose of HB33; it seems improbable that the process of transcribing the magistrate's verbal authorization—which should come at the end of the recording of the proceedings—will cost less than simply transcribing the entire recording

- The fact that the IPAA and the 1994 Legislature recognized that the entire application for a search warrant proceeding should be both recorded and transcribed is an indicator of the importance of the process to fundamental to constitutional rights—the right to be free from unreasonable search and seizure is the bedrock of democracy; the application for a warrant should not be divorced from the tangible, hardcopy of a court file, required to be hunted down, requested, only included upon extra steps; the hardcopy of a file is readily accessible, it's the thing that gets passed from one attorney to the next, what gets passed on when the case is moved, and pieces of the case such as an untranscribed recording can get lost or forgotten; technology can fail; the Legislature recognized that such a fundamental part of a criminal case—one that is an ex parte proceeding upon which entire prosecutions may rest—should not be left to the vagaries of existing only in audio format—the transcription provides an added layer that ensures that both the affidavit and the magistrate's authorization of the search are preserved without question

- The Statement of Purpose for HB33 indicates that the transcripts of the recordings of these application proceedings are “infrequently used.” This statement does not convey the entire picture and is unfortunately misleading. Under Idaho Criminal Rule 16, the rule governing discovery in criminal cases, the prosecution is required to produce statements of prosecution witnesses upon request of the defendant; I am here to tell you that defense attorneys are requesting these statements—which include the affidavits (oral or written) made in applications for search warrants--and we are not being provided with those affidavits; we are having to bring motions to compel, at great expense of time and money, which is sometimes not available, and even then are sometimes not provided with these statements; Our concern is that HB33 puts these affidavits even further out of reach; we are seeking to have these statements produced to us, they are not being provided, and that lack of provision is now being used as a reason to erode the protection that preserving these statements both electronically and hardcopy provides; our requests are already going ignored, and this bill adds in another requirement for yet another “request,” adding more time and cost to the provision of a constitutional defense;
- Because HB33 would result not result in as great of cost savings as it might seem at first, due to 19-4406’s already requiring part of the warrant

application recording be transcribed, and because it stamps approval on the failure of the prosecution to provide bedrock, constitutionally necessary documents and makes those documents harder to get by adding in another requirement for another request, the IACDL respectfully requests that members of this committee vote against sending this bill to the floor

HB33--Applications for search warrants

- My name is Mike French, and I'm a member of the Idaho Association of Criminal Defense Attorneys; I'm here to voice our opposition to HB33
- Prosecutor, law enforcement officer, and judge (and perhaps others) talking about a defendant's case without the defendant or defendant's attorney present
 - Implicates fundamental privacy rights under federal 4th Amendment and Idaho Constitution Article I, Section 17, which specifically mentions the affidavit: The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue without probable cause shown by affidavit, particularly describing the place to be searched and the person or thing to be seized.
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- The fact that the IPAA and the 1994 Legislature recognized that the entire application for a search warrant proceeding should be both recorded and transcribed is an indicator of the importance of the process to fundamental to constitutional rights—the right to be free from unreasonable search and seizure is the bedrock of democracy; the application for a warrant should not be divorced from the tangible, hardcopy of a court file, required to be hunted down, requested, only included upon extra steps; the hardcopy of a file is readily accessible, it's the thing that gets passed from one attorney to the next, what gets passed on when the case is moved, and pieces of the case such as an untranscribed recording can get lost or forgotten; technology can fail; the Legislature recognized that such a fundamental part of a criminal case—one that is an ex parte proceeding upon which entire prosecutions may rest—should not be left to the vagaries of existing only in audio format—the transcription provides an added layer that ensures that both the affidavit and the magistrate's authorization of the search are preserved without question

- The Statement of Purpose for HB33 indicates that the transcripts of the recordings of these application proceedings are “infrequently used.” This statement does not convey the entire picture and is unfortunately misleading. Under Idaho Criminal Rule 16, the rule governing discovery in criminal cases, the prosecution is required to produce statements of prosecution witnesses upon request of the defendant; I am here to tell you that defense attorneys are requesting these statements—which include the affidavits (oral or written) made in applications for search warrants--and we are not being provided with those affidavits; we are having to bring motions to compel, at great expense of time and money, which is sometimes not available, and even then are sometimes not provided with these statements; Our concern is that HB33 puts these affidavits even further out of reach; we are seeking to have these statements produced to us, they are not being provided, and that lack of provision is now being used as a reason to erode the protection that preserving these statements both electronically and hardcopy provides; our requests are already going ignored, and this bill adds in another requirement for yet another “request,” adding more time and cost to the provision of a constitutional defense;
- Because HB33 would result not result in as great of cost savings as it might seem at first, due to 19-4406’s already requiring part of the warrant

application recording be transcribed, and because it stamps approval on the failure of the prosecution to provide bedrock, constitutionally necessary documents and makes those documents harder to get by adding in another requirement for another request, the IACDL respectfully requests that members of this committee vote against sending this bill to the floor

AGENDA
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Monday, February 11, 2019

SUBJECT	DESCRIPTION	PRESENTER
<u>RS26489</u>	Relating to Intentional or Known Impediment of Critical Infrastructure Facilities - To amend and give definitions	Senator Don Cheatham, Idaho State Senate
<u>RS26633C1</u>	Relating to the Liquor Account - To revise a provision, make technical corrections and provide retroactive application	Seth Grigg, Idaho Association of Counties
<u>RS26689</u>	Relating to Hospitalization of the Mentally Ill	Jason Spillman, Legal Counsel, Office of the Courts
<u>RS26690</u>	Relating to the Child Protective Act referred to as "ICWA"	Jason Spillman, Legal Counsel, Office of the Courts
<u>RS26726</u>	Relating to Pretrial Supervision	Seth Grigg, Idaho Association of Counties
<u>RS26775</u>	Relating to the Genital Mutilation of Female Children	Senator Steven Thayn, Idaho State Senate
<u>RS26565</u>	Relating to the Children and Families Legal Services Fund - To create the Children and Families Legal Services Fund in the State Treasury, to provide for how monies in the fund may be expended, and to provide certain conditions.	Brody Aston, Public Affairs Associate, Westberg and Associates
<u>H 30</u>	Relating to Criminal Defendants	Blake Brumfield, Program Mgr., DD Crisis Prevention & Court Services
<u>H 43</u>	Relating to Public Defense - Terminology	Kathleen Elliott, Director, Idaho Public Defense Commission
<u>S 1044</u>	Relating to Small Lawsuit and Resolution Act	Barbara Jordan, Trial Lawyers Association

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Lee

Sen Lodge

Sen Anthon

Sen Thayn

Sen Grow

Sen Cheatham

Sen Burgoyne

Sen Nye

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, February 11, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Lodge, Thayn, Grow, Cheatham, Burgoyne, and Nye

ABSENT/ EXCUSED: Senator Anthon

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Vice Chairman Lee** convened the meeting of the Senate Judiciary and Rules Committee (Committee) at 1:30 p.m.

MOTION: **Senator Lodge** moved to send **RS 26489, RS 26689, RS 26690, and RS 26726** to print.

SUBSTITUTE MOTION: **Senator Burgoyne** moved to send **RS 26489, RS 26689, RS 26690, RS 26726, and RS 26565**. **Senator Nye** seconded the motion. The motion carried by **voice vote** to print.

PASSED THE GAVEL: Vice Chairman Lee passed the gavel to Chairman Lakey. He indicated that **RS 26633C1** and **RS 26775** would not be heard today.

H 30 **Relating to Criminal Defendants.** **Blake Brumfield**, Program Manager, Developmental Disability (DD) Crisis Prevention & Court Services, explained that Idaho Criminal Code §18-311 designates three evaluation methods for legal competency to stand trial: an individual psychologist, individual psychiatrist, or a DD evaluation committee if a developmental disability is the suspected reason for incompetency. **Mr. Brumfield** also explained that the DD evaluation committee consists of a social worker, psychologist, and physician with training in competency, mental health, and developmental disabilities assessments. Proposed changes will improve the accuracy of defendants suspected of being incompetent to stand trial by reason of developmental disability. **Mr. Brumfield** further explained that the proposed changes will not only improve accuracy, but will save costs and improve safety by matching the appropriate safe setting for making someone competent to stand trial. This legislation was shared with the Idaho Supreme Court, Disability Rights Idaho, the Idaho Prosecuting Attorneys Association, and the Idaho Association of Criminal Defense Lawyers. **Mr. Brumfield** stated that Disability Rights and the State Independent Living Council are not opposed to the changes and no other organization has taken a stand on it. A minor fiscal impact would be felt by Idaho counties and the Department of Health and Welfare. County expenditures are estimated to increase \$13,000 statewide to pay physicians.

DISCUSSION: **Senator Thayn** asked Mr. Brumfield how often he thought this process would be used. **Mr. Brumfield** answered that his program did 45 competency assessments the last fiscal year, compared to roughly 400 done by the Mental Health program. **Mr. Brumfield** also stated that there should be 13 additional assessments coming to his program with the proposed legislation.

Senator Burgoyne asked Mr. Brumfield what he thought the opinion of criminal defense attorneys and individuals representing people who might benefit from this legislation would be. **Mr. Brumfield** answered that this legislation should be supported by criminal defense attorneys because the DD evaluation program would be administered by highly trained individuals who can accurately determine the competency of a defendant.

Senator Burgoyne expressed concern that this legislation might put legal disadvantage on the developmentally disabled and asked Mr. Brumfield to address that concern. **Mr. Brumfield** answered that the main purpose of this legislation is to more accurately declare competency or incompetency at or before the stage of Idaho Criminal Code § 18-211.

Chairman Lakey asked Mr. Brumfield if there would be a way for the counsel or the defendant to provide their own expert to determine incompetency. **Mr. Brumfield** answered that defendants can hire their own experts.

Senator Grow asked Mr. Brumfield if the same evaluator will evaluate the defendant after 30, 60, and 90 days. **Mr. Brumfield** answered that it is not always the same evaluator.

Senator Grow asked Mr. Brumfield why he thought a committee would be better at evaluating a defendant than an individual evaluator. **Mr. Brumfield** answered that having a committee is better because it brings in a wholistic approach with individuals from multiple disciplines who can provide more information and accuracy in determining competency.

Senator Grow asked Mr. Brumfield what risks there might be with not having an evaluation committee. **Mr. Brumfield** answered that longer time in incarceration before proceeding to court may be needed, as well as dangerous misplacements while working with defendants towards competency.

Senator Burgoyne commented that he was concerned this bill might work against a defendant's best interest, and that it would have been beneficial to hear testimony from the Criminal Defense Bar for more surety of the bill's benefit.

Senator Thayn questioned whether this legislation is an effort to try and find those that are developmentally delayed, and send them down a certain path, or an effort to find those that are pretending to be developmentally delayed so that they can be protected from the criminal justice system.

Chairman Lakey commented that he views this provision of the code as an effort to make the best determination, from an independent standpoint, as to the competency of a defendant to proceed in a trial.

MOTION: **Senator Thayn** moved to send **H 30** to the floor with a **do pass** recommendation. The motion failed for lack of a second.

MOTION: **Senator Burgoyne** moved to hold **H 30** subject to the call of the Chair. **Senator Grow** seconded the motion. The motion carried by **voice vote**.

H 43 **Relating to Public Defense Terminology.** **Kathleen Elliott**, Executive Director, Idaho Public Defense Commission, stated that the proposed amendment of Idaho Code §§ 19-850, 19-851, and 19-862a, changes the word "grant" to "financial assistance", and "proposed amendment" to "compliance proposal." **Ms. Elliott** explained that there is no fiscal impact as this change in terminology will not alter the budget or the procedures by which the public defense commission disburses funds appropriated by the Idaho Legislature.

MOTION: **Senator Thayn** moved to send **H 43** to the floor with a **do pass** recommendation. **Vice Chairman Lee** seconded the motion. The motion carried by **voice vote**.

S 1044

Relating to Small Lawsuit and Resolution Act. **Barbara Jordan**, Trial Lawyers Association, explained that this bill amends Idaho Code § 7-1509 by updating the dollar value limit for cases which fall under the small lawsuit criteria and have been evaluated to be less than \$35,000. **Ms. Jordan** also explained that this is a follow-up bill to the change that occurred in 2018 that raised the limit of the Small Lawsuit Resolution Act from \$25,000 to \$35,000, which reflected the change in the value of the dollar over time. This statute provides a fair, efficient, and inexpensive system to settle small dollar amount cases, thereby reducing the number of civil cases which would otherwise end up in court. **Ms. Jordan** also stated that this legislation will have little to no fiscal impact.

MOTION:

Senator Grow moved to send **S 1044** to the floor with a **do pass** recommendation. **Senator Cheatham** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business, **Chairman Lakey** adjourned the meeting at 2:05 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

Jacob Garner
Assistant Secretary

AMENDED AGENDA #1
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Wednesday, February 13, 2019

SUBJECT	DESCRIPTION	PRESENTER
PRESENTATION	Fentanyl	Gary Dawson, PhD., Forensic Toxicologist
<u>S 1045</u>	Relating to Correctional Industries Training	Senator Patti Anne Lodge, Idaho State Senate
<u>RS26633C3</u>	Relating to the Liquor Account	Seth Grigg, Idaho Association of Cities
<u>RS26679</u>	Relating to Issuing Civil Protection Orders	Senator Grant Burgoyne, Idaho State Senate
<u>RS26693</u>	Relating to Prison Sentencing	Senator Patti Anne Lodge, Idaho State Senate
<u>RS26852</u>	Relating to Judgment Renewals	Senator Kelly Anthon, Idaho State Senate
<u>RS26853</u>	Relating to Reducing Barriers to Employment due to Criminal Records	Senator Cherie Buckner-Webb, Idaho State Senate
<u>RS26854</u>	Relating to the Idaho Bail Act	Roy Eiguren, Representing the Idaho Bail Coalition
<u>RS26857</u>	Relating to the Mentally Ill	Senator Dan Johnson, Idaho State Senate
<u>RS26862</u>	Relating to Juvenile Probation, Collection of Fees	Seth Grigg, Idaho Association of Cities
<u>RS26863</u>	Relating to Tax Intercept for Debts Owed to the Court	Seth Grigg, Idaho Association of Cities
<u>RS26872</u>	Relating to Grandparents Visitation Rights	Senator Dean Mortimer, Idaho State Senate

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Lee

Sen Lodge

Sen Anthon

Sen Thayn

Sen Grow

Sen Cheatham

Sen Burgoyne

Sen Nye

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, February 13, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Anthon, Thayn, Grow, Cheatham, Burgoyne, and Nye

ABSENT/ EXCUSED: Lodge

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the meeting of the Senate Judiciary & Rules Committee (Committee) to order at 1:30 p.m.

PRESENTATION: **Gary Dawson**, PhD., Forensic Toxicologist, began his presentation going over a few general facts about the drug, fentanyl. **Dr. Dawson** stated that fentanyl is a synthetic opioid 50 times more potent than heroin and 100 times more potent than morphine. **Dr. Dawson** explained that it is typically seen as injections, transdermal patches, and lozenges. The drug began being used in the 1960s as an injectable used to treat moderate to severe pain. The mode of administering the drug through the transdermal patch became popular in the 1980s. The transdermal patch was effective at gradually administering the drug through the skin over a period of 48 to 72 hours. The drug was also very effective at treating individuals who couldn't tolerate opiates such as morphine and codeine. **Dr. Dawson** explained that in the late 1980s, there arose a problem with nurses taking used fentanyl patches and using them on themselves. Fentanyl is typically used to treat severe pain, such as pain associated with cancer and end of life palliative care. **Dr. Dawson** explained that non-pharmaceutical fentanyl is often mixed with heroin and/or cocaine or pressed into counterfeit pills, often without the user's knowledge. Most fentanyl is imported illegally from China and Mexico, with some local producers in the states contributing to the illegal manufacturing of the drug. **Dr. Dawson** stated that one kilogram of fentanyl is enough to kill 500,000 people. Most of the fentanyl that is produced locally does not survive the manufacturing process because the producers are killed by simply inhaling small doses of the drug. **Dr. Dawson** also explained that the drug is incredibly dangerous for first responders and DEA agents who come into close contact with it. Fentanyl labs and manufacturing locations are treated as some of the most dangerous hazardous material sites and extreme measures are taken to secure the lives of first responders and policemen. **Dr. Dawson** explained that carfentanil is thousands of times more potent than fentanyl and relatively easy to manufacture. Overdose rates of fentanyl and other related drugs has increased dramatically over the past few years and has become a serious problem (see Attachment 1).

DISCUSSION: **Chairman Lakey** asked Dr. Dawson if there is much anecdotal evidence of the prevalence of fentanyl. **Dr. Dawson** answered that there is anecdotal evidence, not only from people who have been affected by it, but from medical examiners and coroners who say the drug problem is getting much worse.

Senator Grow asked Dr. Dawson how he passes this information to law enforcement and how law enforcement is able to deal with something so difficult. **Dr. Dawson** answered that he does training with the Ada County Sheriff's Office, special investigators, and the Boise Police Department.

S 1045

Senator Patti Anne Lodge, District 11, explained that **S 1045** is about giving incarcerated people in Idaho's prisons the opportunity for work experience while in prison. This bill will not only help those incarcerated develop a greater worth ethic, but it will help them become better citizens and provide them with greater opportunities when released from prison.

TESTIMONY:

Kevin Mickelson, General Manager, Idaho Correctional Industries, introduced Taja Newcomb, Tiana Landers, Matthew Nu'uvali, and Steve Cherry to testify in support of **S 1045**.

Taja Newcomb, Training Program Participant, at Symms Fruit Ranch, testified that the training program allows those incarcerated to develop greater confidence and tools that will allow them to succeed when they are released from prison.

DISCUSSION:

Senator Thayn asked Ms. Newcomb how many hours are worked in the program per week and if it is seasonal or year round. **Ms. Newcomb** answered that the program allows those incarcerated to work between 36 to 38 hours per week and it is year round work.

Chairman Lakey asked Ms. Newcomb how she found out about the program and how she qualified to participate. **Ms. Newcomb** answered that it was brought to her attention by a sergeant at the South Boise Women's Correctional Center where she was incarcerated.

TESTIMONY:

Tiana Landers, inmate at South Idaho Correctional Institution, testified that the work program has taught her the value of earning an honest living and has given her a new perspective on life. The work program has also provided her with experience and skills, which will allow her to have greater success and independence once released from prison.

DISCUSSION:

Vice Chairman Lee asked Ms. Landers if there are other opportunities for work in the program besides working in agriculture. **Ms. Landers** answered that there were opportunities to work in the kitchen and laundry room areas of the facility.

Senator Grow asked Ms. Landers how she plans on making the adjustment from living one way before prison, to living a different way once released. **Ms. Landers** answered that she is going to a six-month, faith-based program, which will help her transition into normal citizen life.

TESTIMONY:

Matthew Nu'uvali, former inmate at Idaho State Correctional Institution (ISCI), testified that the work program at the ISCI allowed him to learn valuable life lessons, such as honest work and integrity. **Mr. Nu'uvali** explained that the work experience he gained while in prison allowed him to be where he is today.

Steve Cherry, General Manager, CS Beef, explained that the work program has been a great opportunity to change the lives of inmates and to help provide his company with a great labor source and an ability to give back to the community. **Mr. Cherry** explained that there are 40 inmates who work at CS Beef and they have helped to stabilize its workforce and provide excellent work and service.

DISCUSSION:

Senator Thayn asked Mr. Cherry if he had any trouble finding workers prior to participating in the inmate work program. **Mr. Cherry** answered that he was struggling to find workers to do the work that he had available.

TESTIMONY: **Mr. Mickelson** concluded the presentation on **S 1045** by giving important information and statistics on the success rates of the work release program within the Idaho Correctional Institution and stated that the program has allowed many former inmates to gain employment and self worth following their release from prison. **Mr. Mickelson** stated that the work program also reduces the amount of violence among inmates and the cost of incarceration (see Attachment 2).

DISCUSSION: **Senator Grow** asked Mr. Mickelson how he finds employers who are willing to participate in the program and how he selects and qualifies inmates to work. **Mr. Mickelson** answered that those who qualify for the program are those inmates who are in minimum security custody and he typically is able to find employers by word of mouth.

TESTIMONY: **Trent Clark** of Bayer US, and **Delon Lee** of the Idaho Farm Bureau, testified in favor of **S 1045**.

MOTION: **Senator Cheatham** moved to send **S 1045** to the floor with a **do pass** recommendation. **Vice Chairman Lee** seconded the motion. The motion carried by **voice vote**.

Chairman Lakey indicated that **RS 26693** and **RS 26853** would not be heard today.

MOTION: **Vice Chairman Lee** moved to print **RS 26633C3, RS 26679, RS 26852, RS 26854, RS 26857, RS 26862, RS 26863, RS 26872**. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

PAGE RECOGNITION: **Chase Knott**, Idaho Senate Page, expressed his gratitude and appreciation for the Committee members, as well as the opportunity and experience the page program offered him this session.

ADJOURNED: There being no further business, **Chairman Lakey** adjourned the meeting at 2:45 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

Jacob Garner
Assistant Secretary

Feb. 13, 2019

Fentanyl: A Briefing

Gary Dawson, PhD, BCPP
Pharmacology and Forensic Toxicology

February 13, 2019

What is fentanyl?

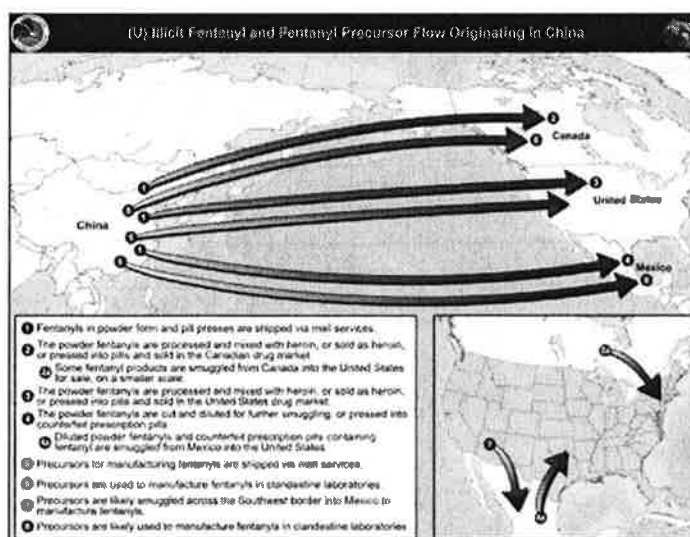
- **Fentanyl is a synthetic (man-made) opioid 50 times more potent than heroin and 100 times more potent than morphine.**
- **It is in CSA Schedule II due to its potential for abuse and dependence**
- **It is typically seen as injection, transdermal patches and lozenges**

Centers For Disease Control and Prevention

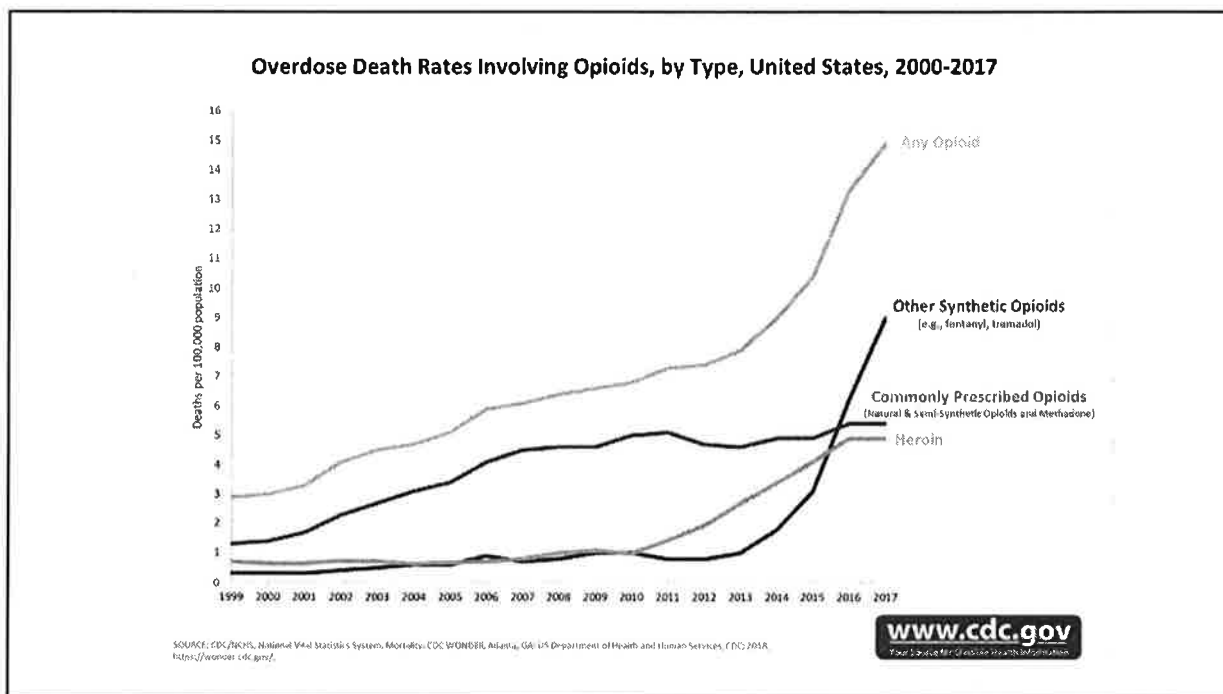
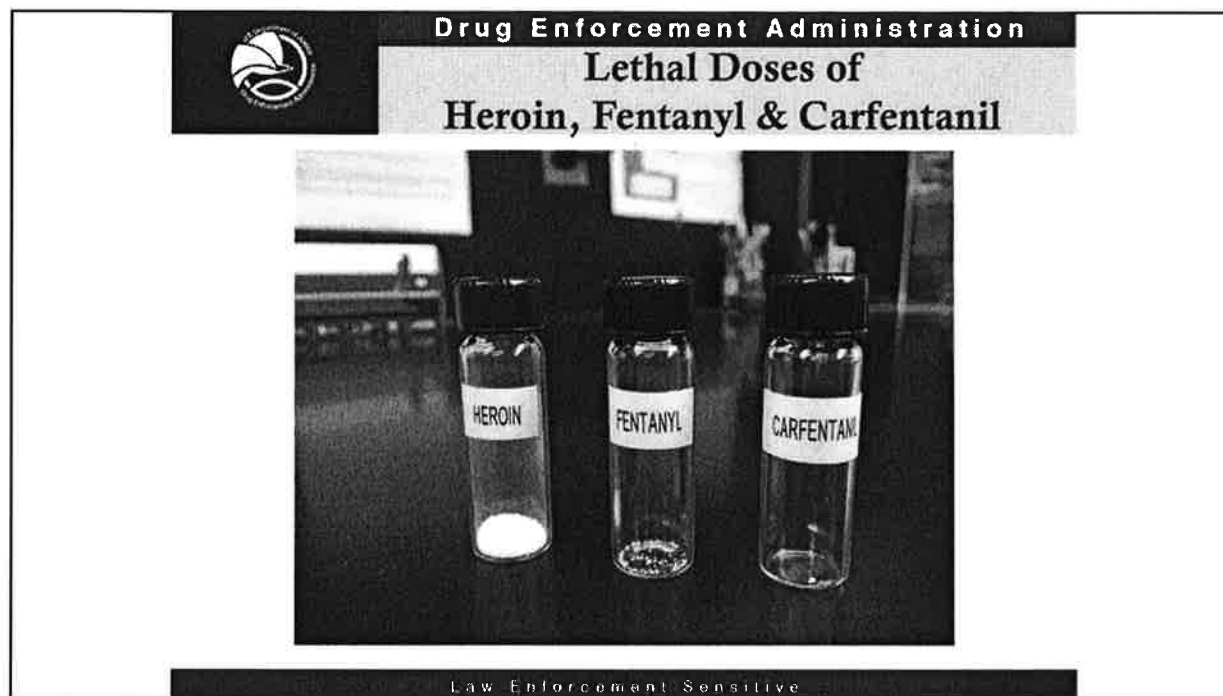
What is fentanyl?

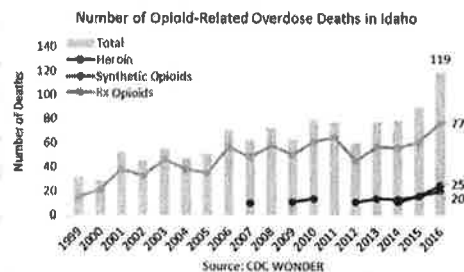
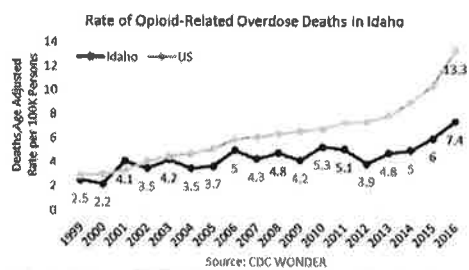
- Pharmaceutical fentanyl is primarily prescribed to manage severe pain, such as with cancer and end-of-life palliative care
- Non-pharmaceutical fentanyl (i.e. clandestine) is often mixed with heroin and/or cocaine or pressed into counterfeit pills—often without the user's knowledge

Centers For Disease Control and Prevention



Source: DEA





WWW.Drugabuse.Gov updated FEB 2018

Fentanyl Analogs	Compared to Morphine
Fentanyl	80 to 100x
Acetylfentanyl	15x
Valerylfentanyl	< 20x
Furanylfentanyl	20x
Butyrylfentanyl	20 to 25x
Acrylfentanyl	100x
3-Methylylfentanyl	400x trans and 6000x cis isomers
Carfentanil	10 000 to 100 000x

Schueler, HE. Emerging synthetic fentanyl analogs. Acad forensic Pathol. 2017. 7:36-40.

Chairman Lakey, members of the committee. My name is Kevin Mickelson, General Manager for Idaho Correctional Industries. I would like to start the Idaho Correctional Industries presentation in support of S1045 will statements from current and past trainees and one of our community partners. S1045.

The State of Idaho currently has more people incarcerated that we can house, with more than 700 people out of state. IDOC Director Tewalt has pointed out that more than 70% of those sentenced to term are people that have been incarcerated before.

ICI is a training program designed to give offenders the opportunity for success after release.

According to the National Correctional Industries Association, the national recidivism rate is 39%. If you factor in involvement in a correctional industries program, that number falls to 22%. That equates to an increase of 17 people per 100 release that don't return to custody.

A 2015 Washington State Institute for Public Policy study concluded, for every \$1 spent in CI programs \$4.77 is saved in future criminal justice costs due to reductions in recidivism. ICI is self-funded, meaning that the \$1 doesn't come from the General Fund.

Other benefits of Correctional Industries Include:

Life skills enhancement and technical training

Reduction of idealness

Reduction of the costs of incarceration

The amount transferred to IDOC due to the ICI AG Program for Room and Board, Security, and transportation:

FY 2018 **\$1,127,000**

First half FY 2019 (July – December) AG program **\$900,000**

The amount paid to the State Victim Compensation Fund from the ICI Ag Program

FY 2018 **\$124,929**

First Half FY 2019 (July – December) AG program **\$110,852**

Trainees Stipends

First Half FY 2019 (July – December) AG program **\$741,660**

Agriculture is the backbone of the Idaho economy. Idaho is facing a major labor shortage in the agriculture industry. The Department of Labor expects this labor shortage for the foreseeable

future, even if there is a downturn in the economy. Employment is imperative for successful reentry for our offenders after release. I think it is prudent to expose and train as many people as possible in areas of need. The ICI Agriculture Training Program for perishable food products has been very successful, as stated by Mr. Cherry from CS Beef. We have the opportunity to bring these training programs and opportunities to all agricultural commodities, thus strengthening Idaho's agriculture community and at the same time reducing recidivism.

I can stand in front of this committee and talk recidivism rates, training hours, training stipends and financials all day long. Mr. Cherry can talk about stabilization of the workforce. But this is about people. This is about Taja, Tiana, Motu and thousands more that are in the care and custody of The Great State of Idaho.

This bill will create a path for more offenders to have the opportunity to provide for their families and successfully reenter our communities.

I ask for your support on S1045.

Thank you for your time.

I will stand for questions.

AMENDED AGENDA #1
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Monday, February 18, 2019

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT HEARING <u>RS26867</u>	Committee Consideration of the Re-appointment of the Honorable Jeff Brudie to the Judicial Council of the Idaho State Bar Relating to Dental Therapists	Honorable Jeff Brudie Tyrel Stevenson, Government Affairs Director, Coeur d'Alene Tribe
<u>S 1091</u>	Relating to Hospitalization of the Mentally Ill	Jason Spillman, Legal Council Administrative Office of the Courts
<u>S 1093</u>	Relating to Pretrial Supervision	Seth Grigg, Idaho Association of Counties
<u>S 1116</u>	Relating to the Liquor Account, Declaring an Emergency and Providing Retroactive Application	Seth Grigg, Idaho Association of Counties
<u>S 1122</u>	Relating to Probation Supervision Fees for Juveniles	Seth Grigg, Idaho Association of Counties
<u>S 1123</u>	Relating to Debts Owed to the Court	Seth Grigg, Idaho Association of Counties
<u>S 1119</u>	Relating to Order of Renewal for Judgments	Senator Kelly Anthon, Idaho State Senate
<u>S 1117</u>	Relating to Harassment Protection Orders	Senator Grant Burgoyne, Idaho State Senate

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Lee

Sen Lodge

Sen Anthon

Sen Thayn

Sen Grow

Sen Cheatham

Sen Burgoyne

Sen Nye

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, February 18, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Lodge, Anthon, Thayn, Grow, Cheatham, Burgoyne, and Nye

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the Senate Judiciary & Rules Committee (Committee) to order at 1:30 p.m.

INTRODUCTION OF PAGE: **Chairman Lakey** introduced Makenna Moore. **Ms. Moore** stated she is from Mountain Home, and expressed excitement in the page opportunity, her goals in education, and specifically her interest in big game management.

GUBERNATORIAL RE-APPOINTMENT HEARING: **Gubernatorial Re-appointment Hearing** of the Honorable Jeff Brudie to the Judicial Council of the Idaho State Bar.

Judge Brudie said he has been a judge for almost 18 years and was nominated by the bar last year when George Ryan retired. He stated this has been an area of interest for him for a long time and hopes that the re-appointment can be renewed for another term.

RS 26867 **Relating to Dental Therapists through the Public Health Service, Indian Health Service or for a tribe contracted to perform such services on behalf of the United States.** **Tyrel Stevenson**, Government Affairs Director, Coeur d'Alene Tribe, stated this legislation authorizes the Idaho Board of Dentistry (Board) to license mid-level dental providers who would be called dental therapists. They must have completed education and training requirements prescribed by the Board to perform a scope of procedures as set forth by the Board. They would only be allowed to work under the supervision of licensed dentists in Idaho.

MOTION: **Senator Anthon** moved to send **RS 26867** to print. **Senator Grow** seconded the motion. The motion carried by **voice vote**.

S 1091 **Relating to Hospitalization of the Mentally Ill**, who are dangerous and meet statutory criteria for commitment. **Jason Spillman**, Legal Council, Administrative Office of the Courts, stated **S 1091** is a six word change regarding the hearing on a petition seeking commitment of a mentally ill person. Patients and their attorney can currently petition a continuance that would add the petitioner. The commitment process requires the proposed patient to be examined by two designated examiners, at least one of which must be a psychiatrist, physician, or psychologist. This amendment would also permit the petitioner to request a continuance not to exceed 14 days. This change is necessary, as at times it is impossible to obtain a second designated examiner within the statutory time frames. This legislation maintains procedural protections for the proposed patient in case a second designated examiner is unavailable. If the proposed patient still meets the

criteria, the petition is usually filed again and the process must be repeated. **Mr. Spillman** stated the petitioner is typically the prosecutor.

DISCUSSION:

Senator Anthon asked if the holding facility is usually a hospital. **Mr. Spillman** indicated it was.

Senator Thayn was concerned about the fiscal note for the extra 14 days and requested clarification regarding who would pay for that. **Mr. Spillman** stated the county usually pays the bill for the person having symptoms.

Senator Burgoyne asked if a reasonable percentage of civil commitment petitions brought by a prosecutor are going to be granted. **Mr. Spillman** acknowledged most of those petitions are being granted. **Senator Burgoyne** asked if the amount of expenditures was going to change, based on the continuance. **Mr. Spillman** replied that during the continuance until the petition is granted, the county would no longer be responsible for the costs.

Senator Nye asked for clarification regarding the timeline. Currently the State can institutionalize anyone who may be mentally ill for up to three days; he asked if this legislation would extend that time up to fourteen days. **Mr. Spillman** verified that was correct.

MOTION:

Senator Anthon moved to send **S 1091** to the floor with a **do pass** recommendation. **Senator Grow** seconded the motion. The motion carried by **voice vote**. **Senator Nye** requested that he be recorded as voting **nay**.

S 1093

Relating to Pre-trial Supervision when ordered by the court. **Seth Grigg**, Executive Director, Idaho Association of Counties, stated Idaho law allows a judge to release an individual from jail who is awaiting disposition of their case. Counties can place conditions on people being placed on pre-trial release. Idaho law will allow counties to charge fees for payment, and currently 10 counties charge \$25 to \$100 per month. Participating counties are relying on their own fee authority to collect a supervision fee, which is not ordered to be paid to the clerk of the court. These counties are relying on Odyssey to collect the fees. Odyssey will no longer be available effective June, 2019. The fee would be set by the Board of Commissioners working with the courts. There are three sections in **S 1093**: 1.) codifying what counties are doing now in establishing a pre-trial release supervision program; 2.) relating to the priority of payments and includes the collection of the pre-trial supervision fee in the property of payments; and 3.) establishing the process for determining the fee. A defendant would not be required to pay any supervision fee unless they are convicted of the offense.

DISCUSSION:

Vice Chairman Lee referred to **S 1093** and how it currently works with regards to verbiage which states, "based on a finding of indigence or other good cause, the court may exempt the defendant from the payment of all or part of the fees authorized by this section, and no defendant shall be denied release or denied participation in a supervised pre-trial release program because of an inability to pay the fees." **Mr. Grigg** stated they wanted to make sure there was language in statute that if an individual did not have the ability to pay for these fees they could still be released on a pre-trial program.

MOTION:

Senator Nye moved to send **S 1093** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

S 1116

Relating to the Liquor Account, Declaring an Emergency and Providing Retroactive Application. **Mr. Grigg**,, stated there was an issue with the language included in **S 1116**, related to the allocation of liquor funds to counties to pay for magistrate court related services. The largest change in this legislation is how funding is apportioned out for infraction and misdemeanor citations or filings. The current language in statute citations issued has proven to be problematic, so they are recommending that be stricken and replaced with filings initiated. **Mr. Grigg** stated that should allow the court to provide the data to the liquor division so that a distribution of these funds can be made. There is a retroactive date back to July 1, 2018, to those funds that have already been set aside and can be distributed and apportioned out to the counties.

DISCUSSION:

Senator Burgoyne asked how the population of the counties is determined. **Mr. Grigg** responded they use the census. **Senator Burgoyne** inquired what the difference was between a citations issued and a filings initiated. **Mr. Grigg** explained that there are three ways a misdemeanor can be issued and by changing the language from citations issued, to filings initiated, everything is covered.

MOTION:

Senator Burgoyne moved to send **S 1116** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion carried by **voice vote**. **Vice Chairman Lee** declared **Senate Rule 39-H** as a possible conflict of interest pursuant to Senate Rule 39(H).

S 1122

Relating to Probation Supervision Fees for Juveniles, during the time they are on probation. **Mr. Grigg**, stated **S 1122** would put in statute what counties are currently doing and allow a judge to order juvenile probation fees to be paid. In June of this year counties will need to find an alternative collection and tracking mechanism as they will no longer be able to use Odyssey unless this legislation passes. Juveniles, as well as their families, will have to take some responsibility to pay for the supervision to hopefully rehabilitate.

DISCUSSION:

Senator Grow asked the purpose behind juvenile supervision fees. **Mr. Grigg** stated counties carry out the will of the court. If a judge places an individual on probation, he has the discretion to have them pay a probation fee or not. There is a cost of providing the service, and a fee is taken to cover the cost. **Mr. Grigg** explained that the main crux of this legislation is for counties to have the ability to continue to collect through Odyssey rather than having to create a separate system. **Chairman Lakey** commented that fees can be paid by the parents or someone else helping the young person.

Senator Thayne added that **S 1122** is not a new policy initiative, but is putting into statute an existing practice. **Mr. Grigg** confirmed that to be true.

Senator Nye asked for clarification as to how this initiative is possible if a juvenile is under 18 and lacks a legal capacity to incur debt or make a contract. **Mr. Grigg** replied often times when the disposition is rendered, parents are included and assist in the payment.

Senator Burgoyne asked if there was an inherent power of the court to assess this situation. **Mr. Grigg** stated it is within the purview of the court to order probation fees to be paid.

MOTION:

Vice Chairman Lee moved to send **S 1122** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion.

DISCUSSION:

Vice Chairman Lee commented that there has not been an issue in the past using Odyssey to pay for the supervision in attempt to rehabilitate the juveniles.

Senator Thayn stated before it goes to the floor he wanted to understand the legal rationale behind **S 1122**, and to understand the power of the court.

Senator Grow said **S 1122** talks about establishing a statutory juvenile probation supervision fee, he asked if it stated what the fee is or how it will be determined. **Mr. Grigg** replied that it would be set with the judge and still have some consistency.

VOICE VOTE: The motion to send **S 1122** to the floor with a **do pass** recommendation carried by **voice vote**. **Senator Nye** requested that he be recorded as voting nay.

S 1123 **Relating to Debts Owed to the Court**, and authorizes the Supreme Court to work with the State Tax Commission to intercept eligible state income tax returns from those owing certain debts to any of Idaho's courts. **Mr. Grigg** stated there are two deficiencies **S 1123** is proposing to remedy. Legislation from 2018 prohibited a drivers license from being suspended for nonpayment of fines and fees. This represents a problem because there is no leverage involved to incent the individuals to pay. In addition, this legislation would include the ability to intercept tax returns for individuals who are in a civil proceeding as well as a criminal proceeding. The final amendment would allow any debts owed to the court to be intercepted even if it is below \$50.

DISCUSSION: **Senator Lodge** asked how much money statewide this would be. **Mr. Grigg** said it is unknown. **Senator Lodge** asked if it is worth trying to recover. **Mr. Grigg** responded in the affirmative.

MOTION: **Senator Grow** moved to send **S 1123** to the floor with a **do pass** recommendation. **Vice Chairman Lee** seconded the motion. The motion carried by **voice vote**.

S 1119 **Relating to Order of Renewal for Judgements**, over successive periods through motion and an order of the court. **Senator Anthon** stated a money judgement in Idaho used to be enforceable for five years. If collection was unable to be made, one could go back to court for a renewal of that judgment. The legislature previously changed it to ten years. The issue being when can one execute on the judgment. This legislation specifies when you can execute on a renewal as well.

TESTIMONY: **Robert Squire**, VP Corporate Counsel, DL Evans Bank, stated he is in favor of this legislation. He explained the purpose of **S 1119** is to clarify some confusion regarding the execution on judgment statute, under the existing statute. In the past when attorneys would enter a judgment, they would enter a renewed judgement, instead of a renewal of judgement. In recent years some of the courts have cut down on that use of words, because it led to potential misinterpretation of this statute in a way that could prevent creditors, attorneys, or lay persons from fully collecting and exercising their rights and collection of judgments. This legislation is a clarification that the judgment can be collected during renewal periods, not just the initial judgement period.

DISCUSSION: **Senator Anthon** commented that this is a particular piece of Idaho Code that might be used by someone other than an attorney. This is an important clarity to make for a lay person collecting a judgment.

MOTION: **Senator Borgoyne** moved to send **S 1119** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

S 1117

Relating to Harassment Protection Orders, in Idaho outside of the domestic violence statute. **Senator Burgoyne** stated this new legislation will amend the civil protection order from S 1373 (2016), regarding some of its unintended consequences. He referred to two previous conversations last session with Magistrate Jamie Sullivan, 3rd Judicial District, regarding telephone harassment. Just using profanity is not enough to merit action. Telephoning someone with intent to terrify, threaten, or intimidate another person, or any threat to inflict injury or physical harm to the person addressed, or any member of his family would be actionable. The new language would put the court in a better position to know what is required to bring the petitions. There are some added provisions that cover verified petition as opposed to those that are supported by an affidavit. Irreparable injury will be changed in several places so that the terminology is much more specific. The court will have the ability to dismiss an insufficient petition without conducting a hearing. Upon filing of a verified petition for a protection order, the court shall hold a hearing within 14 days to determine whether the relief sought shall be granted, unless the court determines that the petition fails to state sufficient fact to warrant relief. If it is found that a protection order does not meet the requirements of **S 1117**, the judge can dismiss it. An ex parte temporary protection order may be granted to the petitioner if the court finds that present harm could result if an order is not immediately issued without prior notice to the respondent, and that respondent has intentionally engaged in the conduct described in **S 1117**. Changes were made in very close consultation with the courts. This puts the courts in the position of not having to deal with frivolous petitions.

DISCUSSION:

Senator Anthon asked for clarification on an ex parte order that continues to be reissued without having a hearing. **Senator Burgoyne** responded that reasons for additional time may be required but the court will have to make a finding that there is good cause to do this.

MOTION:

Senator Anthon moved that we send **S 1117** to the floor with a **do pass** recommendation. **Vice Chairman Lee** seconded the motion. The motion carried by **voice vote**.

DISCUSSION:

Senator Anthon commented that it would not be good for an ex parte situation to continue indefinitely. The language still remains for a full hearing which would be set for no later than 14 days after the issuance of an ex parte order.

ADJOURNMENT:

There being no further business, **Chairman Lakey** adjourned the meeting at 2:45 p.m.

Senator Lakey, Chair

Sharon Pennington, Secretary

Assisted by Carol Waldrip

AGENDA
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Wednesday, February 20, 2019

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT HEARING	Committee Consideration of the Appointment of John D. Hayden, Jr. to the State Board of Correction	John D. Hayden, Jr.
VOTE ON GUBERNATORIAL APPOINTMENT	Committee Vote on the Re-Appointment of the Honorable Jeff Brudie to the Judicial Council	
<u>S 1109</u>	Relating to Motorcycles to Provide that Law Enforcement shall not Engage in Motorcycle Profiling and to Define the Term	Senator Lee Heider, Idaho State Senate
<u>S 1094</u>	Relating to the Children and Families Legal Services Fund to Provide Legal Service Fund Grants by the Supreme Court	Brodie Aston, Idaho Legal Aid Services
<u>S 1121</u>	Relating to Hospitalization of the Mentally Ill to Provide that certain Patients may be Committed when Determined to be Dangerous and Mentally Ill	Senator Dan Johnson, Idaho State Senate
<u>S 1127</u>	Relating to the Interstate Agreement on Detainers	Jared Larsen, Policy Division, State of Idaho
<u>RS26694</u>	Relating to the Re-appointment of an Interim Committee to continue studying the Criminal Justice System in Idaho	Senator Patti Anne Lodge, Idaho State Senate
<u>RS26880</u>	Relating to Expanding the functionality of the Odyssey System to Permit the Supreme Court access to the data necessary to compile and maintain a Statewide Master Jury List	Jason Spillman, Legal Counsel, Administrative Office of the Courts
MINUTES APPROVAL	Committee Approval for Minutes of January 16, 2019 Meeting	

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey	Sen Grow
Vice Chairman Lee	Sen Cheatham
Sen Lodge	Sen Burgoyne
Sen Anthon	Sen Nye
Sen Thayn	

COMMITTEE SECRETARY

Sharon Pennington
Room: WW48
Phone: 332-1317
email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, February 20, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Lodge, Anthon, Thayn, Grow, Cheatham, Burgoyne, and Nye

ABSENT/EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the meeting of the Senate Judiciary & Rules Committee (Committee) to order at 1:30 p.m. **Chairman Lakey** indicated that **RS 26694** and **RS 26880** would be moved up to the beginning of this meeting.

RS 26694 **Relating to the Re-Appointment of an Interim Committee** to continue studying the Criminal Justice System in Idaho.

MOTION: **Senator Anthon** moved to send **RS 26694** to print. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

RS 26880 **Relating to Expanding the Functionality of the Odyssey System** to permit the Supreme Court access to the data necessary to compile and maintain a statewide master jury list.

MOTION: **Senator Anthon** moved to send **RS 26880** to print. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**. **Vice Chairman Lee** asked to be recorded as absent on that vote and declared a possible conflict of interest pursuant to **Rule 39(H)**.

GUBERNATORIAL APPOINTMENT HEARING: **Gubernatorial Appointment** of John D. Hayden, Jr., to the State Board of Correction.

Mr. John D. Hayden, Jr., stated he is a native of Boise and has run his family distribution business for 25 years. He said he accepted a commission for four and a half years in the Marine Corps. For the past 30 years he has been in leadership and management, and gleaned motivational skills from his experience. **Mr. Hayden** believes the recidivism rate is too high, and would like to see that reduced. He is excited about starting this new aspect of his career. When the Governor called and asked him to serve the State, he saw it as an opportunity and privilege.

DISCUSSION: **Senator Grow** asked Mr. Hayden how he came to the attention of the Governor and what the process was for this position. **Mr. Hayden** stated he has known Governor Little for a long time, and their philosophies and thinking are similar.

Senator Burgoyne noted that Mr. Hayden had been a Marine for four and a half years and realized his willingness to take this position was obviously a commitment to sacrifice and public service.

VOTE ON GUBERNATORIAL RE-APPOINTMENT: **Gubernatorial Re-Appointment** of the Honorable Jeff Brudie to the Judicial Council.

MOTION:

Senator Cheatham moved to send the Gubernatorial re-appointment of the Honorable Jeff Brudie to the Judicial Council to the floor with a recommendation that he be confirmed by the Senate. **Senator Grow** seconded the motion. The motion carried by **voice vote**. **Vice Chairman Lee** was absent and requested it be noted.

S 1109**Relating to Motorcycles to Provide that Law Enforcement Shall not Engage in Motorcycle Profiling and to Define the Term.**

Senator Heider stated in Idaho, no agency may engage in motorcycle profiling. The primary intent of this legislation is to help manage and improve the relationship between law enforcement and the citizens. Profiling is occurring to some degree in Idaho, and is unconstitutional. **Senator Heider** stated that this law would not change anything other than making it illegal to profile anyone. If law enforcement is not doing that at the present time, then he felt nothing needed to change either in their training or actions. He asked that the Committee move **S 1109** to the floor with a **do pass** recommendation.

DISCUSSION:

Senator Cheatham commented on a personal experience he had when he was a police officer working patrol. He and his partner had stopped some gang members, and during the process a group of bikers stopped and stood by in support, in case there was an issue. **Senator Cheatham** stated he has never had a negative incident or experience with bikers.

Senator Grow asked what happens if someone claims they are being profiled. He questioned whether this would establish a new level of legal action for someone who feels they have been profiled, or if this is already covered under other law. **Senator Heider** responded that profiling is not allowed, and he was not sure about other coverage.

Representative Anderst, District 12, stated a large number of Idaho citizens in the motorcycle community have expressed their concern regarding a problem with motorcycle profiling. A regulation needs to be established, based on a matter of conduct, for a judge to make a determination if profiling is happening.

Senator Nye asked if there were any statistics on the number of stops that were not based on probable cause, and if there were numbers available of lawsuits or claims against law enforcement. **Representative Anderst** stated he was unaware of the specific numbers.

Senator Burgoyne inquired if legislation passes, what will happen.

Representative Anderst stated nothing needs to be done if an agency is following procedures. When someone has crossed that line, it gives the citizen a foundation to be able to go to court. **Senator Burgoyne** asked what a judge does with a statute that has no penalty provision. **Representative Anderst** replied this legislation is to protect people from illegal stops. He commented that it is his belief that the definition is not being taught in law enforcement training. It is his hope that those who have been trained will be aware that there are incidents of profiling happening, and that it will be more specifically defined.

TESTIMONY:

Mike Kane, Idaho Sheriff's Association, went into detail regarding the history of profiling. An officer could be sued in federal court, as an individual, for violation of civil rights. They could be sued and held personally liable. He stated police officers are trained in Police Officer Standards and Training (POST), that if they profile: (1.) they could be sued, (2.) the evidence is probably going to go away if there is any, and (3.) they are going to get fired.

DISCUSSION:

Senator Burgoyne asked if the term "arbitrary use of" resolves the problem of whether or not the arrest or stop of someone in the area riding a motorcycle, fitting the description of someone that has broken the law, is or is not profiling. **Mr. Kane** responded in the negative. He explained that federal and state courts have already decided what constitutes "probable cause."

Senator Lakey inquired if this statement in the proposed legislation accurately reflects the standard or describes what profiling is. **Mr. Kane** replied that he believed it did.

Senator Grow asked for further explanation regarding policy at the entity level versus an individual choosing to profile someone. **Mr. Kane** provided additional information regarding profiling.

Chairman Lakey asked if profiling is taught at POST. **Sheriff Kieran Donohue** stated profiling is taught at POST, and is one of the things on which they base certification of a law enforcement officer in Idaho. If a law enforcement officer were to engage in profiling they would be violating the terms and conditions of their certification by POST. If an officer is brought up on those charges, a review would be done by POST for further disciplinary action, if found guilty.

TESTIMONY:

David Deveraux, spokesperson for the National Council of Clubs and founder of an organization called the Motorcycle Profiling Project, spoke in support of **S 1109**. He indicated that he would like to see a private cause of action added to the language of the bill .

Jacob Peter Kouts, fourth generation native to Idaho, decorated disabled combat veteran, member of the National Security Agency, Seventieth Intelligence Surveillance and Reconnaissance Agency, United States Air Force, stated he is in favor of this bill because he has been a victim of profiling by local law enforcement.

Nikki Bearss, establishment owner in Caldwell, Idaho, testified against the bill. She runs a biker-friendly establishment and the biker community is not her only clientele, but they are a valuable part of it. Her establishment is being profiled, and it is hurting her ability to make a living. She is in support of this bill.

Lane Tripplet, Government Relations Officer for the Idaho Coalition for Motorcycle Safety (ICMS), spoke in support of this bill. **Mr. Tripplet** stated he and the ICMS support the overwhelming body of law enforcement officers and agencies who act in a fair and responsible manner. They believe that the passage of this bill will continually remind all law enforcement officers who engage in the practice of profiling of their sworn oath when dealing with the motorcyclists of Idaho.

Thair Pond, Vietnam Combat Veteran, past President of the Meridian Kiwanis, and past president of the Idaho Disabilities Association, stated he is a business owner and a biker. He said he supports this bill and would like to see better cooperation between law enforcement and the citizens.

DISCUSSION:

Senator Heider, Vice Chairman Lee, Chairman Lakey, and Representative Anderst discussed **S 1109** and the option of sending the legislation to the 14th Order of Business for possible amendment noting that the section does not create a private cause of action.

MOTION:

Senator Anthon moved to send **S 1109** to the floor with a **do pass** recommendation. **Senator Cheatham** seconded the motion.

DISCUSSION:

Senator Anthon commented that he does not believe good officers do this and to restate it in the law may be a positive step. This is illegal, and he has no problem with putting that in the statute.

Chairman Lakey stated he does not like special group protection, but looks at this as an attempt to bring people together to try to promote education. He feels removal of the private cause of action would help in that educational effort and address the concerns of law enforcement.

**SUBSTITUTE
MOTION:**

Vice Chairman Lee made a substitute motion to send **S 1109** to the 14th Order of Business for possible amendment. **Senator Nye** seconded the motion. The motion carried by **voice vote**. **Senator Burgoyne** requested that he be recorded as voting nay.

ADJOURNED:

There being no further business, **Chairman Lakey** adjourned the meeting at 3:05 p.m.

Senator Lakey, Chair

Sharon Pennington, Secretary

Assisted by Carol Waldrip

AGENDA
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Monday, February 25, 2019

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL APPOINTMENT VOTE	Committee Vote on the Appointment of John D. Hayden, Jr. to the State Board of Correction	
MINUTES APPROVAL	Committee Approval for Minutes of January 16, 2019 Meeting	
<u>S 1071</u>	Relating to Attorney's Fees, Witness Fees and Expenses Awarded in Certain Instances and to Revise the Definition of "Licensing Authority"	Senator Lori Den Hartog, Idaho State Senate
<u>S 1072</u>	Relating to the Idaho Administrative Procedure Act and to Revise Provisions Regarding Fees Associated with Publishing Certain Rules	Senator Lori Den Hartog, Idaho State Senate
<u>S 1094</u>	Relating to the Children and Families Legal Services Fund to Provide Legal Service Fund Grants by the Supreme Court	Brodie Aston, Idaho Legal Aid Services
<u>S 1110</u>	Relating to Bail Enforcement Agents to Provide that Bail Enforcement Agents May Arrest a Defendant in Certain Instances	Michael Kane, Idaho Sheriff's Association
<u>S 1127</u>	Relating to the Interstate Agreement on Detainers	Jared Larsen, Policy Division, State of Idaho

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Lee

Sen Lodge

Sen Anthon

Sen Thayn

Sen Grow

Sen Cheatham

Sen Burgoyne

Sen Nye

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, February 25, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Lodge, Anthon, Thayn, Grow, Cheatham, and Burgoyne

ABSENT/ EXCUSED: Senator Nye

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the Senate Judiciary & Rules Committee (Committee) to order at 1:36 p.m.

GUBERNATORIAL APPOINTMENT VOTE: **The Gubernatorial Appointment of John D. Hayden, Jr., to the State Board of Correction .**

MOTION: **Senator Burgoyne** moved to send the Gubernatorial appointment of John D. Hayden, Jr. to the State Board of Correction to the floor with the recommendation that he be confirmed by the Senate. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Vice Chairman Lee** moved to approve the Minutes of January 16, 2019. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

Chairman Lakey announced that in order to accommodate Mr. Kane's schedule **S 1110** would be heard before other legislation.

S 1110 **Relating to Bail Enforcement Agents to Provide that Bail Enforcement Agents May Arrest a Defendant in Certain Instances.** **Michael Kane**, Idaho Sheriff's Association, stated these individuals, who are not law enforcement officers and not Peace Officers Specialized Training (POST) certified, have the ability to arrest people at gunpoint in certain instances. Bail enforcement agents, also known as bounty hunters, are not regulated in Idaho, so this bill is to set guidelines for that profession. This is a compromise bill where the needs of law enforcement, the general public, and bail enforcement agents have been taken into account. **Mr. Kane** detailed bail enforcement agents qualifications, things they must do, things they can not do, prior appropriate authorizations, and penalties for not following the guidelines of the bill. He gave examples of issues that have transpired in the past due to having no regulations in place.

DISCUSSION: **Senator Grow** and **Mr. Kane** discussed clarifying Section 10. **Senator Grow** asked if protection exists for the public against a bail enforcement agent carrying a gun. **Mr. Kane** replied that currently there is none.

Senator Burgoyne asked for clarification on the amendment for Idaho Code § 41-1039 because there were some numbering issues which he thought could be easily corrected in the 14th Order of Business. **Mr. Kane** agreed with him.

TESTIMONY: **Sheriff Kerin Donohue**, Canyon County, gave two examples of apprehensions when a bail enforcement agent shot at a vehicle. He stated the bail enforcement agents need to wear identification and notify law enforcement when they are going to apprehend someone.

- DISCUSSION:** **Senator Cheatham** asked if a concealed weapons permit would be required when carrying a weapon. **Mr. Kane** replied in the negative. A concealed weapons permit is not required in almost all situations, unless they are on school grounds, or if they are a felon.
- TESTIMONY:** **Fred Birnbaum**, CEO, Idaho Freedom's Foundation, spoke in support of **S 1110**. He stated that he thought the bill satisfies the concerns about excessive regulations.
- Melinda Merrill**, representing the Idaho Bail Coalition, spoke in support of **S 1110**. She indicated that the Idaho Bail Coalition had worked with all the necessary parties to make this legislation work for everyone.
- MOTION:** **Senator Cheatham** moved to send **S 1110** to the 14th Order of Business for possible amendment. **Senator Grow** seconded the motion. The motion carried by **voice vote**.
- S 1071** **Relating to Attorney's Fees, Witness Fees and Expenses Awarded in Certain Instances and to Revise the Definition of "Licensing Authority"** and to make technical corrections. **Senator Lori Den Hartog**, District 22, stated this bill entitles the prevailing party in an administrative procedure between a licensee and a licensing authority to recover their reasonable investigative and defense costs, if they prevail in that procedure. The intent of this bill is to put the license holder on the same footing as the licensing authority. Some licensing authorities thought they had solid grounds for an investigation, and when they completed the investigation the license holder was found innocent. That license holder had no ability to recover those legal fees. Recovery of costs should be given to both parties. **Senator Hartog** indicated that **S 1071** would ensure that there weren't frivolous or ongoing investigations continuing. It allows everyone to act in good faith.
- DISCUSSION:** **Vice Chairman Lee** inquired about foster care licensing, as she has had a number of issues and concerns where individuals had been denied a license. **Senator Burgoyne** responded that he did not think foster parents were going to qualify as a licensee, and that is what this legislation applies to.
- Senator Burgoyne** stated that he regarded **S 1071** as an important step in lessening regulatory burdens on people. It is critical that occupational licensees be held to standards that are consistent with public health and safety and their general welfare in terms of getting what they pay for from people who provide services. Idaho licensing statutes that allowed for agencies to recover attorneys fees and costs when a licensee was found to have done something wrong, were not allowing the licensee the chance to recover their costs and fees when they prevailed in the action. On that basis **S 1071** would provide a way of making sure that regulatory burdens were shared correctly.
- MOTION:** **Vice Chairman Lee** moved to send **S 1071** to the floor with a **do pass** recommendation. **Senator Grow** seconded the motion. The motion carried by **voice vote**.
- S 1072** **Relating to the Idaho Administrative Procedure Act and to Revise Provisions Regarding Fees Associated with Publishing Certain Rules.** **Senator Den Hartog** stated this legislation is intended to remove the potential financial disincentive that agencies could face when cutting or reducing regulations. It falls in line with the Governor's Executive Order to reduce the rules the State departments bring forward each year. **Senator Den Hartog** commented that if an agency is actively working on reducing the regulatory burdens that are in the Idaho Administrative Bulletin, it would not be prudent to charge them fees as they come through and present those production rules for us to consider.

MOTION: **Senator Thayn** moved to send **S 1072** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

S 1127 **Relating to the Interstate Agreement on Detainers.** **Jared Larsen**, Policy Advisor on Public Safety and Criminal Justice Matters and Extradition Coordinator, Governor's Office, explained this bill governs the transfer of sentenced prisoners from one state to another, from the federal government to a state, or from a state to the federal government to stand trial for a separate crime. This legislation changes the Interstate Agreement on Detainers (IAD) from the Director of the Idaho Department of Correction to the Attorney General or his designee. This aligns with some neighboring state policies and with how Idaho handles extradition requests.

DISCUSSION: **Senator Burgoyne** asked for clarification regarding the difference between extradition and detainers. **Mr. Larsen** responded they are completely separate. He stated extradition is how someone is arrested in another state from a warrant issued in the State of Idaho and brought back to Idaho. The Interstate Agreement on Detainers is solely for individuals who are incarcerated in another state. He provided additional detail on what these encompassed.

MOTION: **Senator Burgoyne** moved to send **S 1127** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

S 1094 **Relating to the Children and Families Legal Services Fund to Provide Legal Service Fund Grants by the Supreme Court.** **Brodie Aston**, representing Idaho Legal Aid Services, presented **S 1094** which seeks to create a family and legal services fund. He stated much of the financial support for legal aid comes from the Federal Services Corporation, but that support has been declining in recent years. This legislation would create the children and families legal services fund in the State treasury, provide for what money shall be in the fund, how money in the fund may be expended, and provide certain conditions under which funds from this account cannot be used. Funds from this account would be awarded to Idaho Legal Aid Services with a very narrow purpose of helping some of the most vulnerable in the community. **Mr. Aston** explained they want to make sure they have appropriate sideboards/directives on this fund and for any funds that would be appropriated in the future. The funds will include monies appropriated by the legislature, grants, donations, and money from other sources.

TESTIMONY: **Jim Cook**, Executive Director, Idaho Legal Aid Services, stated they are a statewide nonprofit law firm that works in the civil arena. They represent victims of domestic violence, strangulation, sexual assault, stalking, as well as guardianships, incapacitated senior citizens, consumer related issues in the civil world, and he spoke in support of **S 1094**. **Mr. Cook** said they are currently unable to take the most critical cases, as they had previously, because they do not have enough attorneys. They use lengthy assessments regarding their applicants to determine which cases they are able to take. The cases that don't meet those requirements are consulted and then sent away. Most of these people are low income and do not have money for an attorney.

DISCUSSION: **Chairman Lakey** asked Mr. Cook to describe his goals and time frame to hire additional attorneys. **Mr. Cook** responded that with the State's long term projected growth, it was going to be difficult for service providers to keep up with public demand for help. He would like to hire an additional attorney for each of the seven judicial districts. He stated that his goal is to not have to turn away any domestic violence victims.

Vice Chairman Lee asked for clarification regarding criminal actions and remedies for individuals who are coming forward with allegations of extreme domestic violence. **Mr. Cook** stated in many of the cases either criminal charges have been dropped or they have been pled down to a misdemeanor. **Vice Chairman Lee** asked if Legal Aide was already able to accept donations and grants. **Mr. Cook** said they take donations, have received grants, and would still benefit from additional money to help provide more services to victims.

Senator Cheatham stated that the fiscal note says a fund would be created in the State treasury. **Mr. Brody** responded that it would be and would be overseen by the Supreme Court. **Senator Cheatham** questioned if the Supreme Court gets their funds from the State Legislature. **Mr. Brody** responded in the affirmative. .

TESTIMONY:

Stacy James spoke in support of this legislation. She explained the situation she was in, the process she went through, and the support she received. She stated the system served her the way it was designed to do when she was in an unsafe relationship with her husband.

Criselda Delacruz Valdez, Executive Director, Nampa Family Justice Center, explained they work in partnership with International Day Against Homophobia, Transphobia, and Biphobia (IDAHOT), Legal Aid Services and several other organizations. She testified in support of this legislation. The people they serve are victims of domestic violence, sexual assault, child abuse, elder abuse, stalking, and human trafficking. Statistics show the growing need for legal aid services in their service area, and any funding received would be a great asset to them.

DISCUSSION:

Senator Burgoyne stated he and Mr. Cook have had the opportunity to serve on the Supreme Court's Guardianship and Conservatorship Committee. One of the obligations of the courts in Idaho is to look out for vulnerable children and adults. Lack of access to representation adds to costs sustained by the State budget. He stated they have funded Idaho Legal Aid Services in the past, but have had no structure for it, and he believes **S 1094** is a sensible structure.

MOTION:

Senator Burgoyne moved to send **S 1094** to the floor with a **do pass** recommendation. **Senator Thayne** seconded the motion.

SUBSTITUTE MOTION:

Vice Chairman Lee moved that **S 1094** be held in Committee. **Senator Lodge** seconded the motion.

DISCUSSION:

Vice Chairman Lee commented that the stories were heartbreaking, but decisions have to be made on policy rather than individuals. She suggested reviewing **S 1094** further to determine what the needs are, and what the expectations would be. When that information is available, decisions regarding resource availability and expansion could be addressed.

Senator Lodge stated there is so much need and suffering and there needs to be a way to determine how to meet those needs. She suggested bringing all the invested parties together to look at the entire program to find out what is actually working. **Senator Lodge** commented that it is important to have a way to track how the money is being used. She indicated she would be willing to help work on anything that would determine what the needs are. She stated that she could not support the legislation as it is currently written.

Chairman Lakey commented that he needs to feel comfortable that the Legislature's obligations, under the criminal justice system in the Constitution, are being adequately addressed before going into the civil realm.

**VOICE VOTE ON
SUBSTITUTE
MOTION:**

The Substitute Motion to hold **S 1094** in Committee passed by **voice vote**.
Senator Burgoyne requested that his nay vote be recorded.

ADJOURNED:

There being no further business, **Chairman Lakey** adjourned the meeting at
3:05 p.m.

Senator Lakey, Chair

Sharon Pennington, Secretary

Assisted by Carol Waldrip

AMENDED AGENDA #1
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Wednesday, February 27, 2019

SUBJECT	DESCRIPTION	PRESENTER
MINUTES APPROVAL	Committee Approval for Minutes of February 4, 2019	
<u>RS26940</u>	Relating to Judges; To Revise a Provision regarding the Salary of Justices of the Idaho Supreme Court	Sarah Thomas, Administrative Director of the Courts, Idaho Supreme Court
<u>RS26995</u>	Relating to Rights of Crime Victims	Senator Todd Lakey, Idaho State Senate
<u>S 1074</u>	Relating to County Jails; To Revise Provisions regarding Reception and Board of Prisoners	Seth Grigg, Executive Director, Idaho Association of Counties
<u>S 1133</u>	Relating to the Special Committee on Criminal Justice Reinvestment; To Revise the Date when the Committee Shall Cease to exist	Senator Patti Anne Lodge, Idaho State Senate
<u>S 1134</u>	Relating to Juries; To provide for County Jury Lists, to provide that the Jury Commission may use Certain Information from the Supreme Court, to provide that the Supreme Court shall Compile and Maintain a Master Jury List, and to provide that the Supreme court may request certain Information	Jason Spillman, Legal Counsel, Administrative Office of the Courts

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Lee

Sen Lodge

Sen Anthon

Sen Thayn

Sen Grow

Sen Cheatham

Sen Burgoyne

Sen Nye

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, February 27, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Lodge, Thayn, Grow, Cheatham, Burgoyne, and Nye

ABSENT/ EXCUSED: Senator Anthon

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the Senate Judiciary and Rules Committee (Committee) to order at 1:30 p.m.

MINUTES APPROVAL: **Vice Chairman Lee** moved to approve the Minutes of February 4, 2019. **Senator Grow** seconded the motion. The motion carried by **voice vote**.

RS 26940 **Relating to Judges; To Revise a Provision regarding the Salary of Justices of the Idaho Supreme Court.** **Sarah Thomas**, Administrative Director of the Courts, Idaho Supreme Court, advised that the Joint Finance-Appropriations Committee (JFAC) approved a 3 percent pay increase for Fiscal Year (FY) 2020 for permanent employees of the state. She indicated judicial salaries must be separately established by the Legislature and are set forth in Idaho Code § 59-502. This legislation presents an amendment to Idaho Code § 59-502 which would provide an increase in the total judicial salary pool of 2.95 percent - just under the amount provided for non-judicial employees (for details of recommended changes in judicial compensation see Attachment 1.)

Chairman Lakey, Vice Chairman Lee, Senator Lodge, and Senator Nye stated they had potential conflicts pursuant to Senate Rule 39(H), but intended to vote.

MOTION: **Senator Burgoyne** moved to send **RS 26940** to print. **Senator Grow** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Lakey passed the gavel to Vice Chairman Lee.

RS 26995 **Relating to Rights of Crime Victims.** **Chairman Lakey**, advised this legislation proposes amendments to **SJR 101** regarding the rights of crime victims. He stated that **SJR 101** is about the core principles of notice, opportunity to be present, opportunity to be heard, and standing. It has never been about the right to keep and bear arms. This amendment removes the controversial provision regarding reasonable protection.

MOTION: **Senator Cheatham** moved to send **RS 26995** to print. **Senator Thayn** seconded the motion.

DISCUSSION: **Senator Grow** asked if there was a direct statement in this legislation that negates the previously included language on gun rights. **Chairman Lakey** directed him to page 2, lines 12 and 13.

VOICE VOTE: The motion to send **RS 26995** to print carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Lee returned the gavel to Chairman Lakey.

S 1074

Relating to County Jails - To Revise Provisions Regarding Reception and Board of Prisoners. **Seth Grigg**, Executive Director, Idaho Association of Counties, stated **S 1074** proposes amending Idaho Code § 20-612, to clarify that once an individual has been released from the Sheriff Department's custody, they are no longer responsible for the inmate's medical expenses. He indicated the need for this legislation arises from a recent Idaho Supreme Court decision in the case of *St. Alphonsus Regional Medical Center v. Raney*, 163 Idaho 342 (2018). That decision obligates the Ada County Sheriff to pay for medical care of a citizen after release from jail (for additional comments, see Attachment 2).

Mr. Grigg introduced Joseph Mallet, Chief Legal Advisor, Ada County Sheriff's Office, who spoke in favor of **S 1074**. He provided the Committee with background information on the law related to a sheriff's obligation to care for the inmates incarcerated in the county jail. **Mr. Mallet** reviewed the lawsuit against the Ada County Sheriff, which arose after charges were dismissed against an inmate who attempted suicide and was then hospitalized. The Ada County Sheriff agreed to cover medical expenses prior to the dismissal of charges, but not after. He stated the current language of Idaho Code § 20-612, referencing Idaho Code § 20-605, is what caused the Idaho Supreme Court to hold that the legislature intended for sheriffs to provide continuing health care for former inmates who were released for the purposes of providing medical care. **Mr. Mallet** advised this bill strikes the reference to Idaho Code § 20-605, and adds two sentences at the end to clarify intent (for additional comments, see Attachment 3).

DISCUSSION: **Senator Burgoyne** stated that the sentence added to the bill is good. He does not think striking the reference to Idaho Code § 20-605 will solve the problem because the statutes are read together. He indicated this fix solves only one piece of a much bigger issue and the Legislature needs to take a serious look at these statutes. **Mr. Mallet** stated that the statutes are read together, but Idaho Code §§ 20-604 and 20-605 deal with inmates who are transferred from one county to another county. **Senator Burgoyne** pointed out that in the case of a transfer of an inmate who is in a coma and leaves the jail for medical care, the sheriff is obligated to pay for medical care and will bill the other county. **Mr. Mallet** agreed with that analysis. He indicated that since the Supreme Court decision, Ada County has had six claims that fall under the decision; those claims have totaled about \$250,000. He stated this bill will solve that problem. **Senator Burgoyne** commented that in his view the Supreme Court probably made the only decision it could, given the statutes that this Legislature has written, and it is incumbent upon the Legislature to change it.

TESTIMONY: **Toni Lawson**, Vice President, Government Relations, Idaho Hospital Association (IHA), spoke in opposition to **S 1074**. She stated that IHA feels the bill is premature and asked that it be held in Committee. One of the concerns is, as drafted, **S 1074** simply allows counties to temporarily "furlough" a prisoner from custody, order them to go to the local hospital for care, and take them back into custody once that care has been given. She stated IHA has been asked to provide input on this legislation, and to develop amendments for consideration. They are struggling to find appropriate amendment language that doesn't simply shift the responsibility of what the legislature and courts have determined to be the responsibility of the counties on to the hospitals. They would prefer to see what happens with Medicaid expansion and how that impacts the county indigent program (for additional comments, see Attachment 4).

DISCUSSION: **Vice Chairman Lee** asked if hospitals are billing counties for inmate care at Medicaid rates. **Ms. Lawson** advised to the best of her knowledge they are using Medicaid rates. **Vice Chairman Lee** asked how waiting to act on this bill would change any decision. **Ms. Lawson** indicated that new qualifying rules under Medicaid expansion might change, and how this affects the indigent program is not yet known.

Senator Burgoyne stated that he does not like seeing tax payers get hit with paying for medical expenses. He asked Ms. Lawson's opinion on a possible amendment stating that in these situations, the first payor would be the prisoner and/or insurance or other medical benefits or programs through which he or she is eligible, then, if indigent, the county indigent program and, by extension, the Catastrophic Health Care (CAT) fund. **Ms. Lawson** stated IHA is willing to look at options. She indicated part of the discussion would have to be how this impacts the problem, and not simply who is paying.

TESTIMONY: **Steve Bartlett**, Sheriff, Ada County, addressed the issue of releasing inmates for hospital care. He stated that the sheriff's ultimate goal when dealing with an inmate who needs medical care is for the inmate to receive the best care possible. He indicated that it is not the practice of Ada County to release an inmate to a hospital for medical care, and then once that care has been completed, take the individual back into custody.

Mr. Grigg reiterated that this is a problem that needs to be addressed and kicking the can down the road leaves counties with significant exposure, which could dramatically impact the budgets of small jurisdictions. He stated that the intent is to make it clear in statute that if a prisoner is released from the sheriff's custody, the sheriff no longer has responsibility for medical costs. He commented that this is accomplished with **S 1074**.

DISCUSSION: **Chairman Lakey** asked if it was the county's intention to send this to the 14th Order of Business to change the wording from "county's" obligation to "sheriff's" obligation. **Mr. Grigg** stated he feels like the current language addresses IAC's concerns, but they are open to the change if the Committee feels this needs to be clarified.

The Committee discussed the possibility of sending **S 1074** to the 14th Order of Business for amendment, holding the bill in committee, or sending it to the floor.

Vice Chairman Lee stated she had a conflict of interest pursuant to Senate Rule 39(H), but intended to vote.

MOTION: **Vice Chairman Lee** moved to send **S 1074** to the floor with a **do pass** recommendation. **Senator Cheatham** seconded the motion.

DISCUSSION: **Chairman Lakey** commented that he is sympathetic to the arguments of the hospitals, and does think that county jails are under the obligation to pay for inmates while they are hospitalized. He noted there are other programs that could be responsible for medical care once criminal charges are dismissed. **Senator Burgoyne** commented that until the Legislature deals with Idaho Code §§ 20-604 and 20-605, this problem will not be solved. He indicated he does not mind revisiting these other issues or even having a trailer bill come along to address the kinds of issues that Ms. Lawson raised today, but he does not feel this bill alone will solve the problem.

VOICE VOTE: The motion to send **H 1074** to the floor with a **do pass** recommendation carried by **voice vote**. **Senator Burgoyne** requested that he be recorded as voting nay.

S 1133 **Relating to the Special Committee on Criminal Justice Reinvestment - To Revise the Date When the Committee Shall Cease to Exist.** **Senator Lodge** stated this bill reappoints the interim committee to continue to study the Criminal Justice System in Idaho through 2023.

DISCUSSION: **Senator Burgoyne** commented that he believes the bill would be helped by setting some goals. He stated a fundamental problem is that the legislature did not appropriate the money to bring down case loads of probation and parole, and did not institute the social worker component that is absolutely critical. He noted that we have the Criminal Justice Commission, this interim committee, and all the agencies that are dealing with criminal justice issues, and getting everyone on the same page has proved to be logistically difficult. He stated he reluctantly supports moving ahead with this legislation. **Senator Lodge** indicated she agreed with Senator Burgoyne's comments. She stated the interim committee has made repeated requests for more probation and parole officers, and the interim committee is trying to get more clerical help for them so the officers can spend more time with the individuals they oversee. The interim committee is working to save money, and avoid building an additional prison, by bringing down the incarceration rate and putting more people into community programs.

MOTION: **Senator Nye** moved to send **S 1133** to the floor with a **do pass** recommendation. **Senator Grow** seconded the motion. The motion carried by **voice vote**.

S 1134 **Relating to Juries - To Provide for County Jury Lists, to Provide that the Jury Commission May Use Certain Information from the Supreme Court, to Provide that the Supreme Court shall Compile and Maintain a Master Jury List, and to Provide that the Supreme Court May Request Certain Information.** **Jason Spillman**, Legal Counsel, Administrative Office of the Courts, stated that **S 1134** seeks to harness a functionality of the court's new Odyssey case management system. The Odyssey jury module will allow the Supreme Court to create a master jury list comprised of residents of the counties, so that the counties can then select jurors from a list created by the Supreme Court. In order to do so, the court needs access to the voter registration list and driver's license list. This bill would provide that access for the court. He indicated that currently the law requires that the jury commission for each county do this work. **Mr. Spillman** emphasized this is an opt in situation for the counties; a county that is happy with their current process will still be allowed to utilize that process.

DISCUSSION: **Vice Chairman Lee** asked for clarification that the counties would not have to pay a fee for access to this master jury list. **Mr. Spillman** acknowledged there would be no cost to the counties. **Senator Grow** asked if counties are now using providers other than Odyssey for compiling jury lists. **Mr. Spillman** responded that he believes some counties do use vendors to support their jury selection process. **Senator Grow** expressed concern that the state, through their evaluation process, may give the impression that Odyssey is the best product for this purpose, and thereby create competition for local businesses that may be providing this service for counties.

Senator Thayn asked why the Court could not enter into agreements with the counties to provide this service and, thus, this bill would not be needed. **Mr. Spillman** advised that statute clearly requires the jury commission to compile and maintain the list themselves. He indicated that in order to provide the counties the option to use Odyssey, it is his belief this amendment is necessary. **Senator Lodge** asked why the Supreme Court would want to take on jury selection for the counties. **Mr. Spillman** replied that the Supreme Court has the Odyssey tool which has this functionality built into it, and is willing to use that tool to help the counties with their jury selection process. **Senator Lodge** asked if Odyssey users are happy with the program. **Mr. Spillman** deferred the question to Sarah Thomas, Administrative Director of the Courts, for a response. **Ms. Thomas** indicated that not everyone is happy with the Odyssey system, but she does not expect to ever reach a place where everyone is happy. She stated that the longer users are on the system and understand the capabilities, the happier they are with it. The Supreme Court has the Odyssey jury module available, and wants to give the counties the

option, without cost, to utilize the program. It will provide additional functionality such as sending a text message to jurors when a trial is called off. **Senator Lodge** indicated her concern is that the Supreme Court is adding another function to the Odyssey system when users still have concerns about the system. She indicated she would like to hear how the counties feel about this issue. **Mr. Grigg** indicated he has not heard concerns about implementing an optional jury pool system that would be run by the Administrative Office of the Courts.

Senator Grow noted that counties would have the option to opt in, and asked if they do not already have that opportunity without this bill. **Ms. Thomas** advised they do not. She explained this bill gives the Supreme Court the right to access the county information necessary to compile the statewide list.

MOTION: **Senator Thayn** moved to send **S 1134** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**. **Senator Grow** asked to be recorded as voting nay.

ADJOURNED: There being no further business, **Chairman Lakey** adjourned the meeting at 2:50 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

Assisted by Lois Bencken

Sara Thomas
2-27-19

Idaho Constitution Article 5, §17 states that judicial salaries “shall be as provided by statute.....” Thus, the salaries of Idaho’s judicial officers is set in Idaho Code section 59-502. That statute specifically articulates the salary of the Supreme Court justices. Thereafter it provides for differentials between the different types of Idaho Judges. It provides:

The Judges of the Court of Appeals shall receive \$10K less

The District Judges shall receive \$6K less than the COA

Magistrate Judges shall receive \$12K less than District Judges

The RS I ask you to print today is a bill that would amend section 59-502 to provide for a CEC for Idaho’s judges.

As you may recall, earlier this year JFAC provided for a CEC for traditional, meaning non-judicial, state employees. That CEC provides a 3% increase in the salary pool for state agencies, to be distributed to permanent employees, with a minimum increase of \$550 each employee, and the remaining amount to be distributed based on merit.

The judiciary worked with Chairman Lakey as well as Chairman Dayley to define a CEC for judges that is similar to the CEC for other state employees, but which takes into consideration the existing statutory salary differentials. This RS:

Presents an amendment to the statute which would provide an increase in the total judicial salary pool of 2.95% - just under the amount provided for non-judicial employees.

Provides that the salary of a Supreme Court Justice would be set at \$155,200, an increase of \$3,800, which is a 2.5% increase.

The increase is then distributed equally throughout the judiciary thereby maintaining the current statutory differentials.

With that explanation, I would ask that this committee print RS26940, and look forward to a future hearing on the merits of the bill.

Type	Salary		Leadership
Supreme Court	155,200	2.5%	158,200
Court of Appeals	145,200	2.7%	148,200
District Court	139,200	2.8%	142,200
Magistrate	127,200	3.1%	

Seth Grigg

S 1074

2-27-19

Chairman Lakey, members of the committee, my name is Seth Grigg and I am the Executive Director of the Idaho Association of Counties. With me here today are Ada County Sheriff Steve Bartlett and legal counsel for the sheriff Joseph Mallett.

Senate Bill 1074 is in response to a lawsuit between the Ada County Sheriff's Office and St. Al's Hospital regarding the responsibility of the county sheriff to provide medical care for individuals no longer in the sheriff's custody.

The lawsuit stems from an inmate in the Ada County Jail who attempted to commit suicide. The jail staff saved the inmates life; however, the injuries sustained caused him to remain in a comatose state. Because of this, after some time in the hospital, the charges were dismissed. The county agreed to cover medical expenses prior to dismissal but not after.

The hospital sued and the Supreme Court held that the county had to pay all medical expenses, even after the inmate was no longer in the sheriff's custody. This resulted in the county paying an additional \$250,000 in medical expenses.

Senate Bill 1074 proposes amending Section 20-612, Idaho Code, to clarify that once an individual has been released from the sheriff's custody, the sheriff is no longer responsible for the inmate's medical expenses.

An individual released from the sheriff's custody would still be eligible for other public medical benefits including the county indigent program, the state CAT program, and Medicaid.

I urge you to support Senate Bill 1074 and send it to the floor with a do pass recommendation.

I'll stand for any questions.

Joseph Mallet
2-21-19

Mr. Chairman, Members of the committee, I am Joseph Mallet, the chief legal advisor for the Ada County Sheriff's Office. I'm here to speak to you in support of SB 1074, which is an amendment to Section 20-612, Idaho Code.

GENERAL PURPOSE: This bill clarifies that while the county sheriff's in Idaho are responsible for the care of inmates in their jail, this duty to provide health care only extends to inmates actually in the sheriff's custody.

BACKGROUND: While we do have municipal police officers, under Idaho law, the county sheriff is the primary law enforcement officer in the state. (I.C. § 31-2227). One of the sheriff's related duties is the obligation to keep the county jail and care for the inmates incarcerated in this jail. (I.C. §20-601) Arising out of that duty is the obligation of the sheriff to provide his or her inmates with sufficient food, clothing, bedding, and of course medical care. This duty arises from the U.S. Constitution, and is acknowledged by Idaho law.

This gives rise to a fascinating legal paradox: inmates in jails are the only members of our society who have a constitutional right to medical care. We tolerate this anomaly because it is necessary. If we lock a person in a jail cell and remove their ability to seek their own medical care, we must (as a civilized society), provide that inmate basic medical care.

2018 COURT DECISION: This duty applies to every jail or prison in the U.S. and, until March of 2018, it was also true that the jail or prison's duty to provide medical care was limited to those in jail or prison. However, in March of 2018, the Idaho Supreme court decided St. Alphonsus RMC v. Raney, 163 Idaho 342 (2018), and Idaho became the first jurisdiction in our nation's history, to obligate a sheriff to pay for medical care of citizens after they were released from jail. This isn't a plenary duty to provide medical care for former inmates, but a duty to continue to provide health care to all of those released for the purposes of receiving medical care.

Our Supreme Court ruled that this was the intent of you, our legislature, when you amended I.C. 20-612 in 1994. The bill before you is drafted to clarify that the sheriff's duty to provide medical care only applies to inmates in the county jail. To the extent our health care needs of former inmates are a social problem to be addressed, this bill makes it clear that society will not look to our local law enforcement officials to solve that problem.

SPECIFIC PURPOSE: The amendment primarily strikes the cross reference language to Section 60-605, Idaho Code. It is this cross reference that caused our Supreme Court to hold that you intended for sheriff's to provide continuing health care for former inmates who were released for the purposes of providing medical care. The two sentences at the end were added to clarify the intent (to avoid future misunderstandings), but really are superfluous to the purposes which is served by striking the cross reference language.

UNFAIRNESS OF CURRENT LAW:

1) Creates a class out of former inmates and gives them special rights.

2) The law, as it exists now, has few limitations: Right now, if an inmate is released for the purpose of receiving medical care, the county sheriff must continue to provide medical care, indefinitely. The only limitation on this is that the payment obligation is reduced to the unadjusted Medicaid rate. There are no other limitations. If the judge releases the inmate for the purposes of receiving medical care, then the county sheriff must continue to pay for the care:

- How long does this duty last? There is no limitation. As long as the treatment continues.
- Applies to inmate self-harm. St. Al's case – inmate received additional child molestation charges and tried to kill himself. Our deputies saved him, but not before he caused irreparable harm. The sheriff was ordered to pay.
- Applies even if charges were dismissed. In St. Al's case, the sheriff had paid all hospital bills while the inmate was in his custody. Ordered to pay when released from custody, and also ordered to pay even after all charges were dropped. Why were charges dropped? To cheat a system? No. Because it makes no sense to spend public resources to prosecute a person that is going to be in a lifelong coma.
- The sheriff has to pay even if the condition was pre-existing. Life long heart problems? Ongoing battle with cancer? Diabetes complications? If released from jail to pursue health care needs, then the county taxpayer now has to pay for the continuing care.
- Caused by criminal activity? Doesn't matter. If a judge releases that person to receive medical care – sheriff would have to pay for an injured DUI driver's self-caused injury just like they would have to pay for someone's heart surgery.
- A criminal defense lawyer talks a judge into letting their client free to seek treatment from their own doctors, instead of using ones selected by sheriff? The lawyer also succeeds in getting their client's bills paid by the county taxpayer.

INDIGENCY LAWS ALREADY SOLVE THIS PROBLEM: If you think about our county medical indigency laws, they have their own chapter in the Idaho code. Carefully crafted system of health care payments. Who pays, when they pay, how much they pay. For inmates, hospitals basically only have to show the inmate was released to receive medical care to trigger the payment obligation. Of course hospitals prefer the system without any rules, but it makes more sense to have them use the indigency laws you created for that purpose. If that system needs adjusting, then fix it – but don't solve the problem by creating a completely new one and have it run by your county sheriffs.

CONCLUSION: I would ask you to support this bill that keeps the county sheriff from running a single payer health care system. Let the sheriff's continue to run their jails and care for their inmates. Once those inmates are released and rejoin us in the community, treat them the same as everyone else in our communities.

Thank you, Mr. Chairman. That concludes my remarks. I will stand for questions.

Answers to Common Objections:

1) **It is unfair to let the sheriff avoid medical bills by simply releasing the inmate while undergoing care.** Putting aside the fact that judges and not prosecutor's or sheriff's order release, this is flawed reasoning. Here is why: This statement pre-supposes that the sheriff has a general duty to provide medical care to our county residents, and that this duty could be avoided by trickery. I would like to point out that the only legitimate reason a sheriff provides any medical care, is because the person is locked in the jail. As soon as they are released, whether it be because of posting bond, a pretrial release program, released on their own recognizance, or charges dismissed – whatever the reason for the release – the reason for the sheriff to continue to provide medical care disappears when that person walks out of the door.

Once that person re-joins our community their special right to have medical care provided by the sheriff disappears – at least it should. That person becomes like everyone else in our community and has the same options for health care that the rest of us. Adopting any other rule would say that we are rewarding lawbreakers and giving them something that we don't give to our law abiding citizens. Unfairness – if you are looking for it here – is in giving a former inmate access to taxpayer dollars for health care that our law abiding citizens do not have.

We have a real world example to illustrate this is the pregnant inmate. Last year we had a pregnant defendant who was incarcerated in our jail for committing a crime. It is not uncommon. It is also not uncommon for a judge to order the mother released when she goes into labor so she won't have to have deputies in her hospital room and have her baby taken from her after the birth as she goes back to jail. Right now, as the law stands, solely because she was released from jail to give birth, the county pays – and we did pay for a child birth of a non-inmate in 2018. You have essentially created a special class of citizen and rewarded them with the right to continuing health care. How would we explain this to the neighbor of this woman who had to pay for her own childbirth? She broke a law and you did not, so we rewarded her and punished you? That is unfair, and that would be cured by the bill before the committee today.

2) **What if a person is hurt in jail?** If any law abiding citizen is hurt at home – they solve their own health care problems. If they are hurt in jail, the sheriff provides care because they can't seek their own care, but once they exit the jail and rejoin the rest of us, their ability to have the sheriff continue to provide their care goes away. The location of the injury shouldn't matter. Solution for punching a wall at home should be same for punching a wall in your jail cell, at least after you are released.

3) **What if injury is fault of jail?** Inmate has excellent legal remedies to get care and medical bills paid for. In addition to our excellent state tort law system, inmates have protections of federal law in the Section 1983 claim (42 U.S.C. § 1983). Very, very common for inmates to sue jails under this federal law – all damages recoverable, including attorney's fees, costs, and even punitive damages.

4) **Isn't this really the BOCC's duty?** The duty to run jails and care for inmate's lies solely at the feet of the sheriff. BOCC has no legal ability to perform these functions. County finance – BOCC controls the budget. Discretion is limited by I.C. § 31-3302 and this section that makes it clear that the expenses the sheriff incurs in running jail are allowable charges to county. In other words, you have the sheriff this duty, and forced BOCC to pay necessary expenses. They can't say no.

Good afternoon,

My name is Toni Lawson and I am the Vice President of Government Relations for the Idaho Hospital Association. We represent Idaho's 44 community hospitals, including 17 county and district hospitals.

We believe this bill is premature for a number of reasons, and would ask that you hold it in committee.

As I imagine you are all aware, we are about to undertake some significant changes to the way we provide healthcare coverage in Idaho. As of today, we don't know what those changes are going to look like. There are still a lot of unanswered questions.

We were recently asked to provide input on this legislation and to develop amendments for consideration. It is a complex issue that must take into account local, state and federal elements...private and government payers...and in a number of cases, no payers. We are struggling to find appropriate amendment language that doesn't simply shift the responsibility of what the legislature and courts have determined to be the responsibility of the counties on to the hospitals.

We have concerns that, as drafted, this language simply allows counties to temporarily "furlough" a prisoner from custody, order them to go the local hospital for care, and take them back into custody once that care has been given. In addition to the obvious concerns about cost of care, this also raises questions of safety and security for our hospitals, their staff and patients. (We know this will happen because some counties are attempting to do it now.)

It is my understanding that, when the court came down with the decision this bill is intended to address, it considered several sections of code to come to their conclusion. This only modifies one section of code. We don't know that there won't be unintended consequences in other sections.

It's challenging to come up with alternative language at this time because we don't know what components of a possible solution will still be on the table to consider:

- What's the future of Medicaid expansion?
- What will enrollment and coverage look like? Could these cases qualify for Medicaid?
- What's the future of the county indigent program?
- What's the future of the Catastrophic Healthcare Plan?

We need to wait until Medicaid is sorted out, until questions of the indigency program are resolved and until determination of the future of the CAT fund is resolved. With so many moving parts, this is not the time to add more.

I am sympathetic to the impact of the cost of medical care on the county budget. This bill doesn't solve the problem of payment for care in these cases, it simply says it's not the Sheriffs' problem any more.

We are certainly willing to sit down over the interim and discuss solutions to this issue. We would respectfully ask that you hold this bill in committee and give us time to determine what elements can actually be included in a solution.

Thank you, Mr. Chairman.

AGENDA
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Monday, March 04, 2019

SUBJECT	DESCRIPTION	PRESENTER
<u>S 1146</u>	Relating to Judges to Revise a Provision regarding the Salary of Justices	Senator Todd Lakey, Idaho State Senate
<u>H 113</u>	Relating to Wage Claims to Increase the Time Period When a Claim to Collect Wages, Penalties or Interest must be Commenced	Representative Mathew "Mat" Erpelding, Idaho House of Representatives
<u>RS27010</u>	Relating to Uniform Controlled Substances to Revise Penalties for Trafficking in Heroin and to Provide Penalties for Trafficking in Fentanyl	Senator Todd Lakey, Idaho State Senate

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Lee

Sen Lodge

Sen Anthon

Sen Thayn

Sen Grow

Sen Cheatham

Sen Burgoyne

Sen Nye

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, March 04, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Anthon, Thayn, Grow, Cheatham, Burgoyne, and Nye

ABSENT/ EXCUSED: Senator Lodge

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the Senate Judiciary and Rules Committee (Committee) to order at 1:30 p.m.

PASSED THE GAVEL: Chairman Lakey passed the gavel to Vice Chairman Lee.

S 1146 **Senator Todd Lakey**, District 12, introduced **S 1146** stating that it relates to the judicial compensation for Idaho's judges. He explained that the Change in Employee Compensation Committee recommended a 3 percent increase for all other State employees. The same 3 percent was incorporated into this legislation regarding the judicial compensation formula. Judges salaries are set by statute. It sets the Supreme Court salary and then follows down to the other court levels. Each judge receives the same salary amount based on the dollar figure below the Supreme Court's salary. In this case, each judge will receive a \$3,800 increase in compensation. This will only apply to the judge positions that are currently in place.

DISCUSSION: **Vice Chairman Lee, Senators Lakey, Nye and Burgoyne** all indicated a possible conflict of interest pursuant to Senate Rule 39H due to their professions and the profession of Vice Chairman Lee's husband but intended to vote.

MOTION: **Senator Burgoyne** moved to send **S 1146** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion.

DISCUSSION: **Senators Anthon and Burgoyne** expressed how important it is to pay judges for the service they render. The compensation they receive sends a message of expectations. Judges should be valued for what they do and should be compensated accordingly.

VOTE: The motion to send **S 1146** to the floor with a do pass, passed by **voice vote**.
Vice Chairman Lee indicated that the Committee would hear **RS 27010** before **H 113** when Representative Erpelding arrived because he was testifying in a House committee.

RS 27010 **Senator Lakey** introduced **RS 27010** regarding drug trafficking statutes. The reason for the RS was to promote discussion. Concerns have been expressed in regard to heroin use and the quantities involved. They have discussed the question of whether two grams is for personal use or involved in dealing a controlled substance. Law enforcement felt that the two gram quantity often does reflect that someone is also dealing the substance, but they also recognize that the amount is at the lower end. A proposed compromise would be to increase the minimum quantity to five grams or more in the first tier, increase the quantity in the second tier to ten grams or more, and reduce the second tier time frame from ten years to five years. Fentanyl is much more dangerous than heroin and is becoming an increasing concern, resulting in it being included in the trafficking section.

MOTION: **Senator Anthon** moved to send **RS 27010** to print. **Senator Burgoyne** seconded the motion.

DISCUSSION: **Senator Nye** questioned the wisdom of either getting rid of or changing the mandatory minimum language. **Senator Lakey** stated that this RS is the proposed compromise, it does not repeal the mandatory minimums, but proposes an adjustment in quantity to help make sure it covers those that are dealing and reduces some of the sentences.

Senator Burgoyne stated his concern that fentanyl was included. He questioned how that would be handled with fentanyl also being used as a prescription drug. He said that his understanding was that even a miniscule amount might trigger the highest penalty. **Senator Grow** asked if this RS covers marijuana, cocaine, and methamphetamine. **Senator Lakey** indicated that there were provisions in existing code covering those drugs.

VOICE VOTE: The motion passed by **voice vote**. **Senator Nye** requested that he be recorded as voting nay.

PASSED THE GAVEL: Vice Chairman Lee passed the gavel back to Chairman Lakey.

H 113 **Representative Matthew Erpelding**, District 19, stated that **H 113** addresses partially paid wage claims. Those wages are different than overtime or wholly unpaid wages. This statute states that if no wages are paid, there is a statute of limitations of two years to be able to get those wages back. If only a part of the wages are paid, the statute of limitations is six months. The most common wage issue is a difference in the rate the employee receives and the rate the employer pays. It could also be a time reduction or a deduction for equipment given to the employee. The employee may not have known the employer was going to deduct it from his check. Another wage issue results when an employer pays the employee less than was anticipated because he wasn't satisfied with the quality of the work being done. These differences are usually reported on Monday after the Friday payday and when they are filing their taxes. Under current law, an individual must file a wage claim within six months of the accrual of the cause of action. **H 113** would extend that time to twelve months. The Idaho Department of Labor requires the employee to show proof that they have been shorted to open a claim and the claims are required to be less than \$5,000. If a false or fictitious claim is filed, it is punishable by \$1,000 or six months in prison. There is very little enforcement on the side of the employer. By raising the statute of limitations from 6 months to 12 months, it would create a little more fairness in wage claims.

MOTION: **Senator Anthon** moved to send **H 113** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 1:50 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

AGENDA
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Wednesday, March 06, 2019

SUBJECT	DESCRIPTION	PRESENTER
<u>RS26992</u>	Senate Joint Memorial Relating to Protecting and Enhancing Bear Lake Storage Water Supplies	Senator Lee Heider, Idaho State Senate
PRESENTATION	Idaho Criminal Justice Commission Overview - Presenters including Sara Thomas, Monty Prow and Lisa Bostaph	Eric Frederickson, Director, Idaho Criminal Justice Commission
<u>H 116</u>	Relating to Rape Assault Kits	Representative Melissa Wintrow, Idaho State House of Representatives

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Lee

Sen Lodge

Sen Anthon

Sen Thayn

Sen Grow

Sen Cheatham

Sen Burgoyne

Sen Nye

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, March 06, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Senators Lodge, Anthon, Thayn, Grow, Cheatham, Burgoyne, and Nye

ABSENT/ EXCUSED: Vice Chairman Lee

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the Senate Judiciary and Rules Committee (Committee) to order at 1:30 p.m.

RS 26992 **Senator Mark Harris**, District 32, presented **RS 26992**, the Senate Joint Memorial dealing with Bear Lake on behalf of Senator Lee Heider. The reason for this Memorial is to encourage the States of Utah and Idaho to work together to continue cooperation to protect and enhance the existing beneficial uses of Bear Lake, including irrigation, power generation, recreation, and fishing. If this Memorial is approved, it will be sent to the Governor of the State of Utah and the Utah Legislature to make them aware of Idaho's desires.

Chairman Lakey indicated that upon sending this RS to print, it would be referred to the Resources and Environment Committee.

MOTION: **Senator Nye** moved to send **RS 26992** to print. **Senator Cheatham** seconded the motion. The motion carried by **voice vote**.

PRESENTATION: **Eric Frederickson**, Director, Idaho Criminal Justice Commission (ICJC), began by introducing those who would be presenting with him. He stated the mission of the ICJC is the collaboration to address important criminal justice issues and challenges by developing and proposing balanced solutions, which are cost effective and are based on best practices to achieve a safer Idaho. **Chairman Frederickson** described how the ICJC was organized. He indicated that the 27 members were chosen from agencies or entities that touch on criminal justice issues. They meet about ten times per year and begin the meetings by repeating their vision, mission and values. Considering the diversity of the membership, it is important to go through this ritual. One of the most important things about the ICJC is that the issues they address be based on evidence. Another important facet is the relationships that are built among the group. **Chairman Frederickson** stated that he had been able to resolve issues with a quick conversation with another member that could have taken a long time otherwise. The ICJC allows input from all entities on every level and in every aspect of the criminal justice system (see Attachment 1).

Sara Thomas, Administrative Director of the Courts, Idaho Supreme Court, indicated that she had been a member of the ICJC and had previously been the chairman. The ICJC has a strategic plan and it is reviewed regularly. The executive order from the Governor is a guide for identifying the targeted areas (see Attachment 1). There are subcommittees who focus on working on specific objectives. That ensures the appropriate focus and helps them to see if progress is being made. An additional goal is to strengthen the knowledge base in Idaho by enhancing data collection abilities and then sharing capabilities. In trying to deliver justice throughout the State of Idaho, the ICJC identifies the things that are effective interventions, and they talk about the implications of what would happen if the State tried to implement one of these solutions. **Ms. Thomas** described an addition to the Criminal Justice Commission's website. This dashboard will contain crime statistics and other information in a central locality where everyone can access what is going on with the criminal justice population in Idaho. The main goal is to promote efficiency and effectiveness of the entire criminal justice system.

Monty Prow, Director of the Idaho Department of Juvenile Corrections and the newest member of the Idaho Criminal Justice Commission (ICJC), pointed out five subcommittees under the ICJC. They include the Mental Health and Substance Abuse Subcommittee, Research Alliance Subcommittee, Human Trafficking Subcommittee, Grant Review Subcommittee, and the Community College Subcommittee. The Mental Health and Substance Abuse Subcommittee has been recently focused on the ongoing opioid epidemic. They have worked with local law enforcement to increase the resources for naloxone to make it more available (see Attachment 1).

Chairman Frederickson, stated that he would discuss Idaho's report card in relation to human trafficking. Shared Hope International is the only organization that does an analysis on how states deal with human trafficking issues. There are some discrepancies in their reporting which caused Idaho to have a lower rating than was actually accurate. The Human Trafficking Subcommittee looked into the other deficiencies and attempted to make some changes in the legislation to address those weaknesses.

Senator Burgoyne commented that the ICJC is one of the most functional organizations he has ever served on. He briefly mentioned one of the mass school shootings and the steps that the ICJC took in conjunction with the State Department of Education to catalogue, survey, and come up with a plan to deal with school safety. One of the really important things about serving on the ICJC is finding things one doesn't normally think about that are tucked away but still need attention. This is a large organization that manages to focus on important issues and be very effective.

H 116

Representative Melissa Wintrow, District 19, introduced the Sexual Assault Kit Working Group. She indicated that she had been a part of this group since 2016 when it was created in legislation. Their task has been to figure out how to create minimum standards for processing sexual assault evidence kits in the State of Idaho. The group meets each year and determines what can be done to improve the legislation. This year they are asking for two changes. The original language said kits would be processed with two exceptions. One exception was if the victim requested not to test it. Information showed that the number of kits not being tested was relatively high. Discussion led to the thought that victims might be confused that not testing their evidence kits also meant not going forward on the case. Many times victims will come back after the trauma has subsided and want to move forward with the prosecution. The result of not processing the kit is that the serial offender may not be captured. If the kits are processed and DNA is put into the database, then the evidence could be used if the victim chooses. The second exception relates to law enforcement. The current language says that

evidence will not be tested if a crime hasn't been committed. This was forcing law enforcement to make judgments about evidence before they investigated. There was a question regarding what was "unfounded." In the new legislation "unfounded" means evidence exists that proves no crime has been committed. If the kit gets processed and it is determined that it was "unfounded," law enforcement calls the State Police Forensics Lab and the kit is removed from the database.

TESTIMONY: **Annie Hightower**, Director of Law and Policy, Idaho Coalition Against Sexual and Domestic Violence, stated that her organization supports **H 116** and believes that the needs of victims were considered in the language of the bill. There are three ways the language can benefit both victims of sexual violence and the community as a whole: 1.) it will build confidence and trust in the criminal justice system; 2.) it will help support victim closure and the healing process; and 3.) it will enhance community safety because kits will link within jurisdictions, giving more chances to stop serial perpetrators from continuing to commit crimes.

DISCUSSION: **Senator Thayn** asked Ms. Hightower to explain what an anonymous kit was and how it works. **Ms. Hightower** indicated that if someone is unsure about reporting an assault, there is a very limited time period to collect forensic evidence and have it be viable. This provides a chance to collect the evidence, not report to law enforcement, but have the kit available in case a victim decides to report to law enforcement later. **Senator Thayn** inquired about the protocol for tracking and matching kits with their owners. **Ms. Hightower** stated that the kit is assigned a number, and that number will then be assigned so someone can connect the number to the victim.

TESTIMONY: **Bea Black**, Director, Women's and Children's Alliance, testified that her organization is supportive of passing this legislation. She gave a client's perspective stating that if one was going to go through a very invasive procedure such as this, one would have to assume that something was going to happen with it. After a trauma has occurred, the victim needs to have power over what happens with the information collected.

TESTIMONY: **Chief Craig Kingsbury**, Twin Falls Police Chief and President of the Idaho Chiefs of Police Association (ICOPA), stated that ICOPA supports the changes in **H 116**. In 2015 there were some unflattering new reports about Idaho law enforcement and the way they treated victims and the evidence that went along with these cases. The treatment wasn't malicious but law enforcement did not have the needed knowledge or tools. The Idaho Legislature has made laws making it easier for law enforcement to do their jobs and for victims to receive the help they need.

TESTIMONY: **Jean Fisher**, Ada County Prosecutor's Office, stated that the Prosecutor's Office is in full support of this legislation. Ultimately, knowledge is power and having all the kits tested is very important. It allows law enforcement to find out later if there is a serial offender. **Ms. Fisher** commented that this legislation does not change anything for the victims, and it is a great public safety tool.

TESTIMONY: **Tad Roper**, father of a rape victim, gave testimony describing the rape of his daughter at Barber Park in Boise, Idaho. He told about their experience with the police officers and their insistence that there was no attack. At St. Luke's Hospital they were supported by a nurse who insisted they should do a rape kit on both of the girls who were attacked. A few days later a composite sketch was broadcast on local news. Shortly after, another young woman was kidnapped and killed. A man was arrested for her kidnapping and both girls picked him out of the lineup. He was sentenced to three life sentences for the assaults and one death sentence for the murder. **Mr. Roper** stated that anything that can be done to make the process easier on victims should be done. He supported the passage of this bill.

MOTION: **Senator Burgoyne** moved to send **H 116** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion.

DISCUSSION: Senators **Anthon, Grow, Cheatham,** and **Burgoyne** were very supportive of this legislation and were appreciative of the work, time, and testimonies given in Committee.

VOICE VOTE: The motion to send **H 116** to the floor passed by **voice vote**.

ADJOURNED: There being no further business, **Chairman Lakey** adjourned the meeting at 2:29 P.M.

Senator Lakey
Chair

Sharon Pennington
Secretary

IDAHO CRIMINAL JUSTICE COMMISSION

LEGISLATIVE UPDATE 2019

VISION

- Collaborating For a Safer Idaho

MISSION

- The Idaho Criminal Justice Commission is committed to collaboration to address important criminal justice issues and challenges by developing and proposing **balanced solutions**, which are **cost effective** and based on “best” practices to **achieve a safer Idaho**.

VALUES

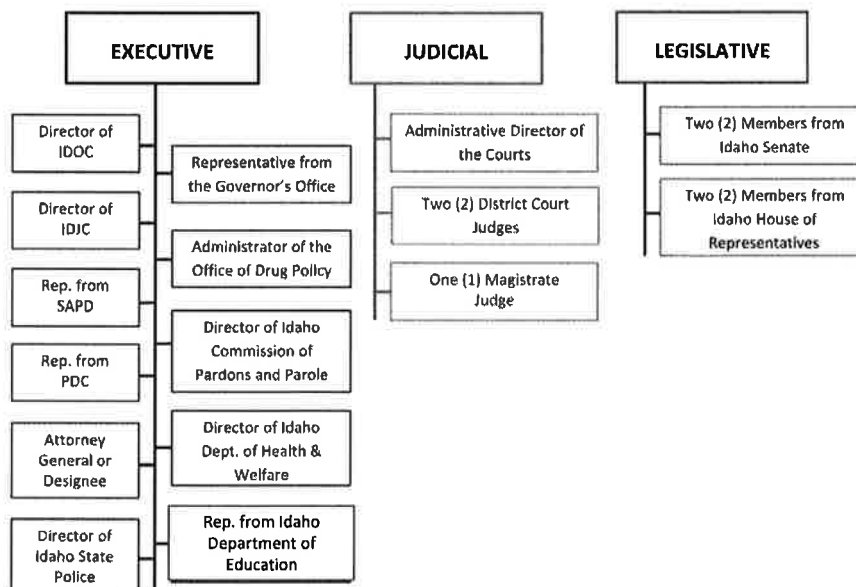
- We are **committed** to learning and enhancing our understanding.
- We **communicate** honestly.
- We **encourage** open dialogue and feedback.
- We are **flexible** and innovative.
- We **keep** our commitments.
- We **respect** all contributions.
- We are **sensitive** to the unique perception and needs of others.

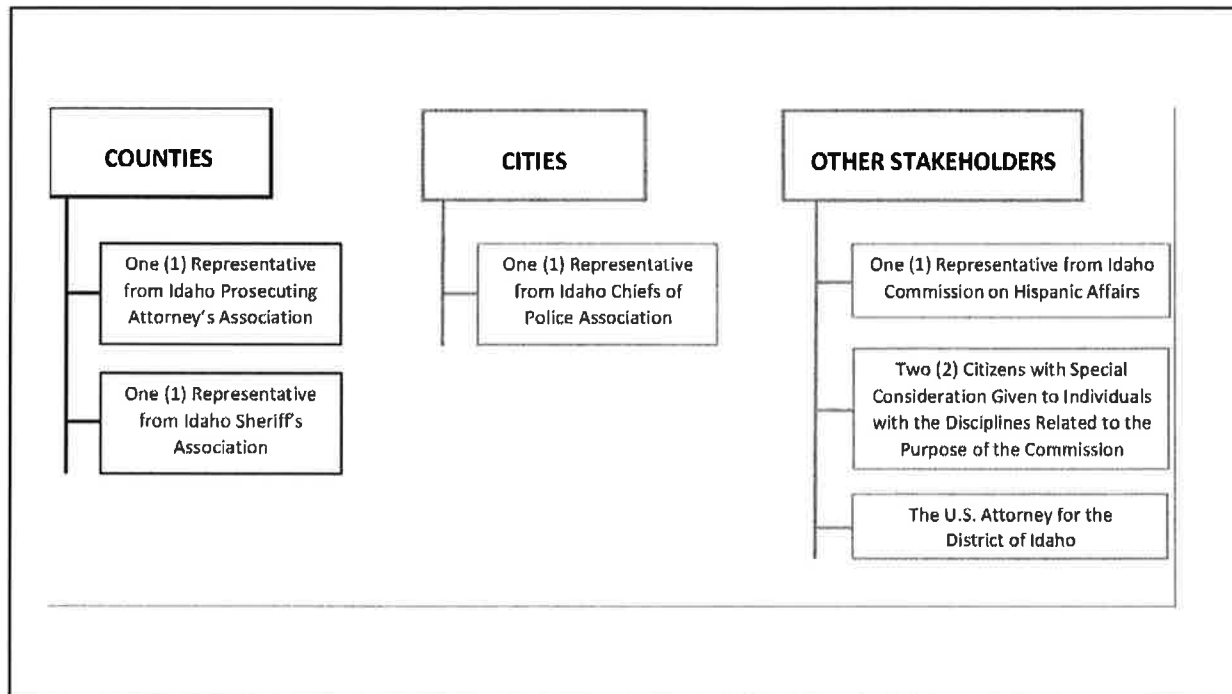
Executive Order 2018-03

C.L. "BUTCH" OTTER
GOVERNOR



WHEREAS, it is in the best interest of the citizens of the State of Idaho that government promote efficiency and effectiveness of the criminal justice system and, where possible, encourage dialogue among the respective branches of government to achieve this effectiveness and efficiency...





WHEREAS, communication and cooperation among the various facets of the community of criminal justice professionals is of utmost importance in promoting efficiency and effectiveness...

IDAHO CRIMINAL JUSTICE COMMISSION STRATEGIC PLAN FOR THE STATE OF IDAHO

COMBATING CRIME AND PROTECTING CITIZENS

GOAL - Reduce victimization and recidivism in the state of Idaho

Objective 1: Identify and establish subcommittees relating to accountability, prevention, education, and recidivism reduction.

Objective 2: Strengthen knowledge base in Idaho by enhancing data collection abilities and sharing capabilities

PROVIDING POLICY MAKERS AND CRIMINAL JUSTICE DECISION MAKERS WITH ACCURATE INFORMATION

GOAL - Advance delivery of justice through effective interventions by proposing balanced solutions, which are cost effective and based on best practices

Objective 1 - Determine reasonable expectation of community needs and services based on resources

Objective 2 - Promote standards and equity

Objective 3 - Reduce criminogenic risk factors through the expanded use of risk assessments, policies and programming

Objective 4 - Ongoing assessment of problem solving courts and other community-based sentencing alternatives

Objective 5 - Examine emerging issues

PROMOTING EFFICIENCY AND EFFECTIVENESS OF THE CRIMINAL JUSTICE SYSTEM

GOAL - Promote well-informed policy decisions

Objective 1 - Identify strategies to promote efficiencies and effectiveness in the criminal justice system

Objective 2 - Continue presentations and training on trends, best practices and priority issues

Objective 3 - Create and implement data sharing mechanisms and agreements among stakeholder agencies

Objective 4 - Maintain awareness of substance abuse trends and priority issues

Objective 5 – Identify sustainable funding for priorities in ICJC's strategic plan

SUBCOMMITTEE WORK

MENTAL HEALTH AND SUBSTANCE ABUSE

RESEARCH ALLIANCE

HUMAN TRAFFICKING

GRANT REVIEW COUNCIL

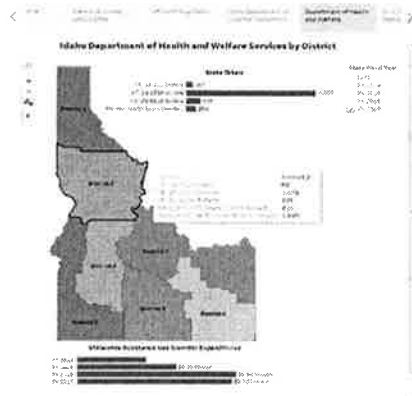
COMMUNITY COLLEGE

11

MENTAL HEALTH AND SUBSTANCE ABUSE SUBCOMMITTEE

- Focused on the ongoing Opioid Epidemic
- Follow-up Mental Health Summit

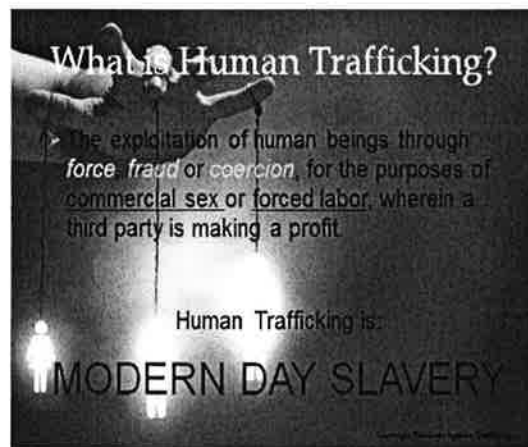
IDAHO CRIMINAL JUSTICE COMMISSION DASHBOARD

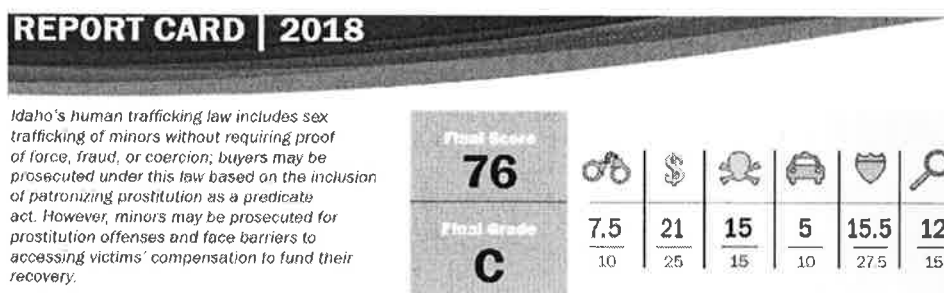
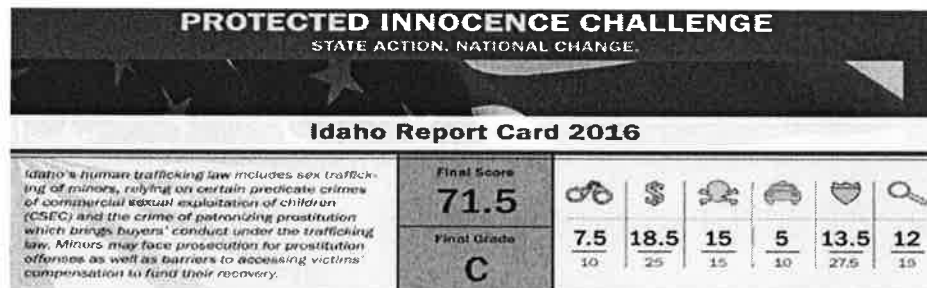


- Criminal Justice Research Alliance Subcommittee
 - ID Department of Juvenile Corrections
 - ID Department of Corrections
 - Commission on Pardons & Parole
 - Office of Drug Policy
 - Department of Health & Welfare
 - ID Supreme Court
 - ID State Police/Stat. Analysis Center
- Provide current and accurate statewide data relevant to criminal justice policies and decision-making
- Updated annually
 - Currently, rolling out data as available
- Live date: February 1, 2018
- Link: <https://icjc.idaho.gov/>

HUMAN TRAFFICKING

- Committee's Focus
 - Gaps in Enforcement
 - Detection
 - Support Systems for Victims





HOW IDAHO SCORED

- **Criminalization of Minor Sex Trafficking – 7.5/10**
 - Only violated if offender engages in human trafficking while committing another specified crime.
- **Criminal Provisions Addressing Demand – 21/25**
 - Idaho silent on mistake of age?
 - No asset forfeiture for buyers.
- **Criminal Provisions for Traffickers – 15/15**
- **Criminal Provisions for Facilitators – 5/10**
 - No crime for benefiting from or assisting and aiding human trafficking.
 - May face prosecution under other laws.
- **Protective Provisions for Child Victims – 15.5/27.5**
 - Idaho's Rape Shield law only applies criminal cases of rape?
 - Idaho's expungement inadequate?
 - No immunity for minor victims from prosecution.
 - No defense for adult victims from prosecution.
- **C.J. Tools To Investigate and Prosecute – 12/15**
 - Encourages but does not require law enforcement training.

CRIMINAL LAW REVIEW

- Statutes were reviewed, proposed changes include:
 - Human Trafficking – Amended I.C. 18-8601-8603
 - Human Trafficking – Safe Harbor I.C. 18-8606
 - Blue Alert Legislation

Idaho Criminal Justice Commission

Collaborating For A Safer Idaho

<http://icjc.idaho.gov/>

AGENDA
SENATE JUDICIARY & RULES COMMITTEE
1:30 P.M.
Room WW54
Monday, March 11, 2019

SUBJECT	DESCRIPTION	PRESENTER
<u>H 118</u>	Relating to Criminal Procedure to Provide Certain Requirements for Pretrial Risk Assessment Tools	Representative Greg Chaney, Idaho House of Representatives
<u>H 137</u>	Relating to Dangerous and At-Risk Dogs	Dr. Jeff Rosenthal, CEO, Idaho Humane Society
<u>H 181</u>	Relating to Children to Revise Definitions of "Abuse"	Mike McGrane, Idaho Nurses Association
<u>H 117</u>	Relating to Crime Victims to Provide that a Fine may be Imposed for Certain Felonies and for the Attempt of Certain Felonies	Representative Caroline Nilsson Troy, Idaho House of Representatives
<u>H 114</u>	Relating to Children to Provide that Female Genital Mutilation of a Child shall be a Felony	Representative Caroline Nilsson Troy, Idaho House of Representatives

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Lee

Sen Lodge

Sen Anthon

Sen Thayn

Sen Grow

Sen Cheatham

Sen Burgoyne

Sen Nye

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, March 11, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Lodge, Anthon, Thayn, Grow, Cheatham, and Nye

ABSENT/ EXCUSED: Senator Burgoyne

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the meeting of the Senate Judiciary and Rules Committee (Committee) to order at 1:30 p.m.

H 118 **Relating to Criminal Procedure to Provide Certain Requirements for Pretrial Risk Assessment Tools.** **Representative Greg Chaney**, District 10, stated that this legislation prohibits the use of biased pretrial risk assessment algorithms for the purpose of determining bail or conditions of release from jail pending trial. **Representative Chaney** also explained that this legislation has no fiscal impact to the General Fund, other state funds, or to any local government budgets because the cost of validating these tools will be born by the vendor of that specific tool.

MOTION: **Senator Lodged** moved to send **H 118** to the 14th Order of Business for possible amendment. **Senator Cheatham** seconded the motion. The motion carried by **voice vote**.

H 137 **Relating to Dangerous and At-Risk Dogs.** **Dr. Jeff Rosenthal**, Chief Executive Officer, Idaho Humane Society, stated that Idaho's dangerous dog law was completely revised in 2016. The original law contained a misdemeanor penalty in addition to restrictions imposed on the further keeping or destruction of the dog. **Dr. Rosenthal** explained that the 2016 rewrite inadvertently removed any criminal penalty for harboring a dangerous or at-risk dog. Officers in the field lost the ability to write citations under this section of Idaho Code and this has prevented cases being pursued and prosecuted to protect public safety. This legislation restores the misdemeanor penalty under prior Idaho law. **Dr. Rosenthal** also stated that it revises the definition of injury and restores enforcement of the act to those with vested authority. It will have no impact on the General Fund or to local government.

MOTION: **Vice Chairman Lee** moved to send **H 137** to the floor with a **do pass** recommendation. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

H 181 **Relating to Children to Revise Definitions of "Abuse."** **Mike McGrane**, Idaho Nurses Association, explained that the Idaho Nurses Association is proposing legislation to clarify the definition of "abused" under Idaho Code §16-1602, to remove the term "subdural hematoma" and to replace it with the term "head injury." **Mr. McGrane** stated that this change broadens the definition to include head and brain injuries other than the limited diagnosis of subdural hematoma and is consistent with the other more broad descriptions of injuries in the definition. This bill would have no fiscal impact on state or local government related to this change.

MOTION: **Senator Nye** moved to send **H 181** to the floor with a **do pass** recommendation. **Vice Chairman Lee** seconded the motion. The motion carried by **voice vote**.

H 117 **Relating to Crime Victims to Provide that a Fine may be Imposed for Certain Felonies and for the Attempt of Certain Felonies. Representative Caroline Nilsson Troy**, District 5, explained that in 1992, Idaho Code § 19-5307 was enacted and it created a special fine up to \$5,000 for certain enumerated crimes of violence. This fine is separate from criminal penalties or restitution and is paid to the victim or the victim's family. **Representative Troy** stated that if recovered from the defendant, often this fine is used to help pay for counseling, therapy, or other treatments for the lingering emotional and psychological effects of being a victim of a violent crime. The fine works as a civil judgment against the defendant, however it does not substitute for any civil action or remedy that may be available to the victim or the victim's family. **Representative Troy** further explained that Idaho Code § 18-206 limits fines for attempts of crimes to one-half the maximum fine that can be imposed for the attempted crime. This bill adds two violent felonies to the list subject to the fine of up to \$5,000: Attempted Strangulation and Domestic Violence. **Representative Troy** explained that this bill also allows for fines of up to \$5,000 for the attempts of two felonies: Murder and Rape. This legislation has no fiscal impact to the General Fund, other state funds, or to any local government budgets.

MOTION: **Senator Cheatham** moved to send **H 117** to the floor with a **do pass** recommendation. **Senator Grow** seconded the motion. The motion carried by **voice vote**.

H 114 **Relating to Children to Provide that Female Genital Mutilation of a Child shall be a Felony. Representative Troy** stated that this legislation changes the statute of limitations of this crime. Female genital mutilation has been recognized internationally as a violation of human rights of girls and women. **Representative Troy** concluded, saying that this legislation has no fiscal impact to the General Fund, or other state funds, or to any local government budgets.

TESTIMONY: **Bruce Wingate**, Protect the Idaho Kids Foundation, testified in favor of this bill saying that this legislation would greatly help children be better protected from abuse and help prevent religiously motivated harm to children.

MOTION: **Senator Thayn** moved to send **H 114** to the floor with a **do pass** recommendation. **Vice Chairman Lee** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business, **Chairman Lakey** adjourned the meeting at 1:43 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

Jacob Garner
Asst. Secretary

AGENDA
SENATE JUDICIARY & RULES COMMITTEE
1:00 P.M.
Room WW54
Wednesday, March 13, 2019

SUBJECT	DESCRIPTION	PRESENTER
<u>RS27086</u>	Unanimous Consent Request Relating to Rule Rejection - Idaho Soil and Water Conservation Commission - from Senate Agricultural Affairs Committee	Senator Jim Guthrie, Idaho District 28
REPORT	Report of the Joint Publishing Committee	Jennifer Novak, Secretary of the Senate
<u>H 78</u>	Relating to Crimes and Punishments	Senator Abby Lee, Idaho District 9
<u>H 209</u>	Relating to Peace Officers Arresting without a Warrant	Representative Bill Goesling, Idaho District 5
<u>H 204</u>	Relating to Definition of Personal Property	Representative John Green, Idaho District 2
<u>H 30</u>	Relating to Psychiatric Examinations	Blake Brumfield, Idaho Department of Health & Welfare

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Lee

Sen Lodge

Sen Anthon

Sen Thayn

Sen Grow

Sen Cheatham

Sen Burgoyne

Sen Nye

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, March 13, 2019

TIME: 1:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Lodge, Anthon, Thayn, Cheatham, Burgoyne, and Nye

ABSENT/ EXCUSED: Senator Grow

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the Senate Judiciary and Rules Committee (Committee) to order at 1:00 p.m.

RS 27086 **Unanimous Consent Request Relating to Rule Rejection. Senator Lakey** requested that **RS 27086** be sent to print and returned to the Senate Agricultural Affairs Committee (see Attachment 1).

MOTION: **Senator Lodge** moved to send **RS 27086** to print. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

REPORT: **Relating to the Report of the Joint Publishing Committee (Report).** **Jennifer Novak**, Secretary of the Senate, indicated that she would present the recommendations of the Report and stated that Attachment 1 would give the required information. The Report recommends to continue printing 150 copies of the Session laws. An additional ten volumes were added dating back to 1984. A recommendation was made for the Secretary of the Senate and the Chief Clerk of the House to be allotted the time during the next two terms to upload the additional Session laws (see Attachment 2).

MOTION: **Senator Anthon** moved to approve the Joint Publishing Committee Report. **Senator Lodge** seconded the motion. The motion carried by **voice vote**. The report will be sent to the floor with a **do adopt** recommendation.

H 78 **Relating to Crimes and Punishments, Vice Chairman Lee**, recognized Representative Ryan Kerby for all of his efforts in working on this legislation. **Vice Chairman Lee** indicated that there were some significant changes made to **H 78**. She stated that this bill would create a diversion program for adults with the intent of trying to change their behavior and is an innovative way to ensure that these individuals do not drive drunk. It would require an interlock device to be placed on their cars for 12 months that would not let the car be turned on if they had been drinking. It would also require inmate labor details. This is a voluntary program. **Vice Chairman Lee** stated she was aware that the Prosecutors Board does not support this program, but there are several prosecutors and assistant prosecutors who do support this as a way to change behavior.

TESTIMONY: **Brad Fralick**, Director of Government Relations, Interlock, and representing the Coalition of Ignition Interlock Manufacturers, indicated that his organization is in support of **H 78**. He discussed the advantages and benefits of using an interlock device to help change behaviors and explained programs being offered in other states. He said that on average, when talking about recidivism rates, it is approximately two-thirds less than those who do not use the device.

TESTIMONY: **Holly Koole Rebholtz**, representing the Idaho Prosecuting Attorneys Association, stated they oppose **H 78** and listed reasons why (see Attachment 3). **Ms. Rebholtz** gave input from surrounding states on their experiences with DUI diversion programs.

DISCUSSION: **Senator Anthon** asked when the vote tally in Attachment 2 was taken. **Ms. Rebholtz** responded that it was taken before the amendments in the House and they were given the exact letter that the Senate Committee was given. **Senator Cheatham** inquired if in a court case a judge would be able to see the progress of using the interlock device. **Ms. Rebholtz** stated that the way the bill is currently written, a judge is not required to get involved at all.

TESTIMONY: **Michael Kane**, representing the Idaho Sheriffs Association, said that since the meeting with Representative Kirby, Vice Chairman Lee and Senator Burgoyne and their agreement to work towards an amendment that would take the bill back to the way it was prior to the amendment in the House, the Sheriffs Association would support it. Their support is given with the understanding that the legislation would go to the 14th Order for Amendment.

Miden Aberusa, Lead Victim Services Specialist, Mothers Against Drunk Drivers, testified in support of **H 78**. **Ms. Aberusa** stated similar reasons to previous testimonies. She indicated that availability and accessibility of the interlock devices would not be an issue or a cost to the public. The drunk driver pays for the device and for those who can not pay, the indigent programs cover the cost.

Elisa Massoth, Attorney from Payette, Idaho, District 9, speaking on behalf of herself and the Idaho Association of Criminal Defense Lawyers, stated that she was in support of **H 78**. She shared the unique challenges of living in rural Idaho. If a driver's license has been revoked, there is no other form of transportation. The offender is anxious to do whatever they can to stay gainfully employed and keep their life on the right track. They are unable to do that if they have no driver's license so they are motivated to take proactive steps. She reiterated that the bill is optional so there is flexibility to not take the device. **Ms. Massoth** argued that in terms of case load, it would ultimately reduce the case load for both the courts and the prosecutors.

Matthew Conde, AAA Idaho, testified against **H 78**. He stated that adding an interlock device has been proven to save lives, but it must be used for that to happen. It does become an important wake-up call for people who have had an issue in that they realize driving is a privilege, not a right. It can help people to realize that they need to make some adjustments and change their relationship with alcohol in order to be able to keep the driving privilege without putting others at risk. AAA is in favor of assigning an interlock in any diversion program. It only works to keep a car from moving if alcohol is involved. It doesn't test for other drugs. Studies show that drugs and alcohol are often both found in the system. The reason they are asking to have the original language restored is because the interlock is the means by which driving is prevented.

MOTION: **Senator Anthon** moved to send **H 78** to the 14th Order of Business for possible amendment. **Senator Cheatham** seconded the motion. The motion passed by **voice vote**.

H 209 **Relating to Peace Officers Arresting without a Warrant.** **Representative Bill Goesling**, District 5, indicated that **H 209** was a result of a shooting in the Moscow, Idaho School District. A police officer in Texas alerted the Moscow Policy Department. They responded, identified, located and cited the individual. The individual remained at large which created concern within the community. **H 209** would provide when a police officer may make arrests with or without a warrant. It would also provide a list of events which may warrant such an action.

TESTIMONY: **Quinn Perry**, Policy and Government Affairs Director, Idaho School Boards Association (Association), stated that her Association supports **H 209**. **Ms. Perry** commented on the incident in Moscow (see Attachment 4). She explained that **H 209** would make it possible for law enforcement to treat a threat upon a school as seriously as it would domestic violence, assault, or stalking by placing the individual under arrest and having them evaluated in police custody.

Paul Stark, General Counsel, Idaho Education Association (IEA), said that IEA stands in favor of **H 209**. He stated that the U.S. Supreme Court grants the act of warrantless arresting under some circumstances to be constitutional. This law is necessary to protect the children as well as the educators in their schools.

Representative Goesling enumerated two small language changes. On lines 24 and 25, "assault and battery" will be replaced by "violence." On lines 27, 28, and 29 the words "threatens violence upon school grounds of firearms and other deadly or dangerous weapons" are added. He stated that he had support from Idaho Association of School Administrators, Idaho Sheriffs Association, the Fraternal Order of Police, Idaho Police Chiefs Association, Idaho Prosecutors Association, and the Idaho State School Board Association.

MOTION: **Senator Thayne** moved to send **H 209** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion.

DISCUSSION: **Senator Grow** asked Representative Goesling if there had been questions concerning this legislation taking away gun rights. **Representative Goesling** stated that questions had been asked about gun rights. He said that his response was that the safety of children was of the utmost importance and good people were hired and trained to be police officers. He indicated that one of his efforts was to increase funding so that each school could have a safety resource officer who would have the training they need to do the job. **Chairman Lakey** commented that he felt this legislation was the next step in the Legislature's efforts to protect schools. **Senator Anthon** stated that he would support the motion in Committee but would not commit to support it on the floor.

VOICE VOTE: The motion to send **H 209** to the floor with a **do pass** recommendation passed by **voice vote**.

H 204 **Relating to the Definition of Personal Property.** **Representative John Green**, District 2, stated that this legislation is to consolidate the three different classes of property in one place. The first class consists of real property, which is real estate that is accepted in every jurisdiction. The second class consists of tangible personal property and intangible personal property. Tangible property would be the things we can perceive with the senses. Intangible would be those things that we could not perceive with senses. Companies that deal with intellectual property are to a large extent dependent on intangible personal property definition statutes and cases to protect their rights. **Representative Green** said that he decided to design a definition that would clarify what property rights are for intellectual property. The goal was to make laws to attract businesses coming to Idaho and then protect their intellectual property rights should litigation arise. To date there has been no litigation in this area and no contrary case law concerning this definition. Currently the statute only includes the evidence of the intangible property, not the underlying thing that has the value to the person who is concerned. He said that all the lawyers he had consulted agreed that it was a good idea when they understood this was a consolidation to make it easy to find these definitions in the law. The Idaho State Tax Commission did not have an issue with this legislation affecting intangibles.

DISCUSSION: **Senator Anthon** and **Representative Green** had a discussion concerning the possibility of a contrary definition in codes in other areas and how that might affect this legislation. **Representative Green** stated that he has never seen a jurisdiction where it had a contrary definition to the one included in **H 204**.

Senator Burgoyne and **Representative Green** discussed what constitutes tangible versus intangible property. **Senator Burgoyne** was concerned that there may not be a good sense of what the ramifications are of putting this into code. **Representative Green** responded that because the definition is so clear, that in terms of jurisprudence throughout the country, there is nothing within it that would conflict with any case in the United States.

MOTION: **Senator Thayn** moved to send **H 204** to the floor with a **do pass** recommendation. **Senator Cheatham** seconded the motion. The motion failed. **H 204** will be held in Committee.

DISCUSSION: A discussion was held regarding whether adding the definition of personal property to the Idaho Code was really necessary or prudent. **Senator Burgoyne** and **Senator Anthon** both questioned the wisdom in that and stated that they would be voting against **H 204**. **Chairman Lakey** suggested that some additional follow up may help resolve some of the questions and they could possibly pursue it next year.

Chairman Lakey stated that because of time constraints, **H 30** would be heard on Friday, March 15, 2019.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:10 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary



Attachment 1

3-13-2019

Idaho State Senate

SENATOR JIM GUTHRIE


March 12, 2019

The Honorable Todd M. Lakey
Judiciary & Rules Committee
Idaho State Senate
HAND DELIVERED

Dear Chairman Lakey:

The Senate Agricultural Affairs Committee unanimously requests that the enclosed RS 27086 Relating to Rule Rejection – Idaho Soil and Water Conservation Commission – Docket No. 60-0501-1801, rejecting Section 103 (leaving intact the remaining Subsections) and Section 151, Subsection 01, be sent to print from your Committee and then referred to the 10th Order for further action.

Thank you for your assistance.


Senator Jim Guthrie, Chairman
Agricultural Affairs Committee

JG;jg

STATEMENT OF PURPOSE

RS27086

This legislation rejects certain sections of rule of the Idaho State Soil and Water Conservation Commission relating to the Resource Conservation and Rangeland Development Program in Docket No. 60-0501-1801, Section 103, leaving intact all of the remaining subsections of that section, and Section 151, Subsection 03.

FISCAL NOTE

There is no fiscal impact to the General Fund.

Contact:

Senator Jim Guthrie
(208) 332-1000

DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).



Sixty-fifth Legislature

LEGISLATURE OF THE STATE OF IDAHO



First Regular Session - 2019

IN THE SENATE

SENATE CONCURRENT RESOLUTION NO. _____

BY _____

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE IDAHO
SOIL AND WATER CONSERVATION COMMISSION RELATING TO THE RESOURCE CONSER-
VATION AND RANGELAND DEVELOPMENT PROGRAM.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive
agency rules under the provisions of Section 67-5291, Idaho Code, in the
event that the Legislature finds that the rules are not consistent with leg-
islative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of
the Idaho Soil and Water Conservation Commission relating to the Resource
Conservation and Rangeland Development Program are not consistent with leg-
islative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular
Session of the Sixty-fifth Idaho Legislature, the Senate and the House of
Representatives concurring therein, that IDAPA 60.05.01, relating to the
Resource Conservation and Rangeland Development Program, Section 103., and
Section 151., Subsection 01., adopted as a pending rule under Docket Number
60-0501-1801, only, be, and the same are hereby rejected and declared null,
void, and of no force and effect.



Idaho State Senate

SENATOR JIM GUTHRIE

March 12, 2019

The Honorable Todd M. Lakey
Judiciary & Rules Committee
Idaho State Senate
HAND DELIVERED

Dear Chairman Lakey:

The Senate Agricultural Affairs Committee unanimously requests that the enclosed RS 27086 Relating to Rule Rejection – Idaho Soil and Water Conservation Commission – Docket No. 60-0501-1801, rejecting Section 103 (leaving intact the remaining Subsections) and Section 151, Subsection 01, be sent to print from your Committee and then referred to the 10th Order for further action.

Thank you for your assistance.

A handwritten signature in cursive script, reading "Jim Guthrie".

Senator Jim Guthrie, Chairman
Agricultural Affairs Committee

JG;jg

3-13-2019



Idaho State Senate

CAPITOL BUILDING
P.O. BOX 83720
BOISE, IDAHO 83720-0081

March 13, 2019

To: Senate Judiciary and Rules Committee
House Judiciary, Rules, and Administration Committee

Pursuant to Idaho Code Section 67-509

The Joint Publishing Committee recommends the continued endorsement of limiting the printing of the Idaho Session Laws to a total of 150 copies given the accessibility and decrease in expenditures associated with online access. The Committee also acknowledges there will be a significant decrease from the 2018 publishing price of \$4,682 in legislative expenditures as the state agencies will be required to cover the cost of the amount of volumes they order.

The Joint Publishing Committee also requests that the Secretary of the Senate and the Chief Clerk of the House of Representatives be allotted the time to continue to process, review, and upload historic volumes to the legislative website during the next two legislative interims.

The Joint Publishing Committee,

/s/ Senators Lakey and Burgoyne
/s/ Representatives Dayley and Gannon
/s/ Secretary Novak
/s/ Chief Clerk Maulin

cc: President Pro Tem Hill
Speaker Bedke



Idaho Statutes

Idaho Statutes are updated to the web July 1 following the legislative session.

TITLE 67

STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 5

ENACTMENT AND OPERATION OF LAWS

67-509. PUBLICATION OF LEGISLATIVE JOURNALS AND SESSION LAWS – DISTRIBUTION AND REPORT. (1) On the first legislative day or as soon thereafter as the speaker shall have been elected, it shall be the duty of the president of the senate and the speaker of the house of representatives each to appoint a printing committee for his body whose duties shall be, in addition to its duties prescribed by the rules of said bodies respectively, to immediately meet in joint session and to provide for the publication of the journals of the two (2) houses of the legislature. Said committee shall determine the form of the journals to be used, the size of the type, the number to be distributed to each member of the legislature and the method of distribution, the number of journals to be made available for sale through the secretary of state's office, and the manner in which the journals are to be bound for the permanent copies of the journal. All costs incurred in publishing the journals shall be a proper charge against the legislative fund, unless an appropriation for such purpose has been made.

(2) The joint printing committee of the senate and house of representatives shall exist to print, publish, and distribute the session laws. The joint printing committee will consist of the printing committees of each house. The chairmen of the respective judiciary and rules committees, or their designee, will chair their house's printing committee and cochair the joint printing committee.

(3) Prior to the final adjournment of a regular legislative session, the joint printing committee must meet and determine the proper method of printing and preserving the session laws of that legislative session. The joint printing committee must give consideration to the cost, accessibility, and preservation of the session laws. The joint printing committee will provide sufficient physical copies of session laws.

(4) The published session laws must include the bills, concurrent resolutions, joint resolutions, petitions and memorials enacted or adopted during the legislative session. In addition, the session laws must include amendments to the constitution adopted at the preceding general election, and bills, concurrent resolutions, joint resolutions, and memorials enacted or adopted during an intervening extraordinary session of the legislature. The published session laws must include a title page, a table of contents,

certificate pages, tables of amended and repealed statutes, an index of contents, and a list of each member of the senate and house of representatives.

(5) Prior to the final adjournment of a regular legislative session, the printing committee of each house must meet jointly to consider the proper method to print and preserve the session laws. The joint printing committee will prepare a brief written report of its recommendations, which written report must be delivered to the judiciary and rules committees of the senate and the house of representatives. The written report must include the projected cost to implement its recommendation, together with a distribution list of persons that will be provided printed volume(s) of the session laws. If the written or amended report is rejected by the legislature by concurrent resolution, the joint printing committee will meet to reconsider its recommendations. If the written or amended report is not rejected, the joint printing committee will enter into an agreement(s) that is substantially consistent with its written or amended report to print, publish, and deliver the session laws, which costs will be paid from the legislative account.

History:

[(67-509) 1907, p. 327, sec. 1; am. R.C., sec. 70; reen. C.L., sec. 70; C.S., sec. 112; am. 1921, ch. 5, sec. 1, p. 6; am. 1931, ch. 8, sec. 1, p. 12; I.C.A., sec. 65-509; am. 1935, ch. 43, sec. 3, p. 79; am. 1965, ch. 17, sec. 1, p. 29; am. 1971, ch. 19, sec. 1, p. 33; am. 1977, ch. 232, sec. 1, p. 687; am. 2018, ch. 236, sec. 3, p. 555.]

How current is this law?

Search the Idaho Statutes and Constitution



DATE	INVOICE #
9/28/2018	186304

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CUST P.O #	OUR P.O. #	SHIP VIA	FRANK #	TERMS	ACCOUNT #
	82905	Our Truck		Net 15	R

QTY	DESCRIPTION	AMOUNT
310	Books Session Law Books 2018 (155 ea of 2)	4,261.00
1	Shipping/Freight/Postage	502.00
	Discount/Credit/Coupon (3 orders billed directly)	-81.00

Invoices are due and payable in 30 days following date of invoice. A finance charge of 1.5% per month or 18% per year will be charged to past due accounts.

TOTAL	\$4,682.00
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Session Laws Printing Costs

	<u># copies</u>	<u>\$</u> <u>per page</u>	<u>\$</u> <u>per bind</u>	<u># pages</u>	<u>\$</u> <u>House</u> 60%	<u>\$</u> <u>Senate</u> 40%	<u>\$</u> <u>Total</u>
2000	1200				\$36,456.15		
2003	800	\$19.10			\$19,956.96		
2004	800	\$19.10			\$21,859.32		
2005	800	\$19.10	\$9.50		\$23,403.90		
2006	800	\$19.10	\$9.50		\$23,693.22		
2007	604	\$17.45	\$9.75	1409	\$21,923.73	\$14,775.82	\$36,559.55
2008	626	\$17.45	\$9.75	1337	\$21,322.59	\$14,215.06	\$35,537.65
2009	626	\$17.45	\$9.75	1252	\$20,432.64	\$13,621.76	\$34,054.40
2010	565	\$17.15	\$10.00	1106	\$18,160.20	\$12,107.16	\$30,267.90
2011	505	\$16.85	\$10.75	1150	\$19,048.05	\$11,186.95	\$30,235.00
2012			\$10.75	1112	18,913.73	11,108.06	30,021.79

2015

22,432

2016

15,095

2018 150

4,682

1984



Idaho Prosecuting Attorneys Association, Inc.

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3-13-2019

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Stephanie Lamkin

Dear Committee Members,

The Idaho Prosecuting Attorney's Association respectfully requests that you vote "No" on HB 78.

HB 78 has been presented as a bill that will make Idaho's roads safer. Nothing could be further from the truth. HB 78 places DUI diversion in the Court's jurisdiction with no clear understanding of how these diversions will be run, who will supervise offenders in these programs, or what criteria will be used throughout the state to decide when a diversion is complete. While HB 78 includes minimum standards, it is silent on many technical details and will lead to different treatment of offenders around the state making Idaho's roads less safe.

Idaho's prosecutors believe HB 78 sends the wrong message to the public regarding driving under the influence. Idaho's Prosecutors overwhelmingly oppose HB 78 (see attached county-by-county report). For decades, many have fought to bring to light the seriousness of driving under the influence and how it destroys innocent lives. According to the National Highway Traffic Safety Administration (NHTSA), the average alcohol impaired driver has driven impaired over 80 times before first arrest. NHTSA has long discouraged the use of DUI diversion programs based upon available research disclosing negative effects. Driving under the influence offenders are without a doubt one of the most serious public safety risks to a community.

HB 78 - DUI diversion - allows offenders to escape accountability and puts the public at risk because the offender does not enter a guilty plea. NHTSA reports repeat offenders are eight times more likely to be in fatal crashes. Judges are entitled to have the benefit of an accurate record showing an offender's history so they can appropriately protect the public and provide the offender with the best opportunity at rehabilitation.

HB 78 will likely result in costly litigation. Decisions to allow impaired drivers to enter a diversion program are not subject to appeal, a defense attorney to represent them, nor other legal protections. The likelihood of litigation increases while the public's trust in the system decreases. Idaho's prosecutors have researched how this issue has been handled in other states, where guilty pleas are not required for diversions, and have serious questions about the use of diverted DUIs for enhancement. For example, Oregon's original DUI diversion statute did not require a guilty plea and it created so many legal issues and public safety concerns that their legislature amended their diversion statute to require a guilty plea.

In addition, not requiring a guilty plea will make it nearly impossible for a prosecutor's office to move forward with a DUI case if an offender fails diversion due to unavailable witnesses and spoliation of evidence. Finally, we do not see the urgency of allowing diverted DUI's to avoid a guilty plea given Idaho currently allows for withheld judgements which can soften the consequences a DUI has on a person who is truly a one-time offender.

Idaho's current driving under the influence laws hold DUI offenders accountable while taking into consideration rehabilitation. Idaho's Courts already have an option to give an offender a withheld judgment which has the same desired result as HB 78.

We, therefore, recommend that legislators vote against HB 78.

DUI Diversion Bill: County by County Votes

District:	County:	Elected:	Position:	District:	County:	Elected:	Position:
4	Ada	Jan Bennetts	Oppose	3	Gem	Erick Thomson	Oppose
3	Adams	Chris Boyd	Oppose	5	Gooding	Matthew Pember	Oppose
6	Bannock	Stephen Herzog	Oppose	2	Idaho	Kirk MacGregor	Oppose
6	Bear Lake	Adam McKenzie	Oppose	7	Jefferson	Paul Butikofer	Oppose
1	Benewah	Brian Thie	Oppose	5	Jerome	Mike Scib	Oppose
7	Bingham	Paul Rogers	Oppose	1	Kootenai	Barry McHugh	Oppose
5	Blaine	Jim Thomas	Oppose	2	Latah	Bill Thompson	Oppose
4	Boise	Adam Strong	Oppose	7	Lemhi	Bruce Withers	Oppose
1	Bonner	Louis Marshall	Oppose	2	Lewis	Zachary Pall	Oppose
7	Bonneville	Daniel Clark	Oppose	5	Lincoln	E. Scott Paul	Oppose
1	Boundary	Jack Douglas	Oppose	7	Madison	Sid D. Brown	Oppose
7	Butte	Steve Stephens	Oppose	5	Minidoka	Lance Stevenson	Oppose
5	Camas	Matthew Pember	Oppose	2	Nez Perce	Justin Coleman	Oppose
3	Canyon	Bryan Taylor	Abstain	6	Oneida	Cody Brower	Oppose
	Supports Concept/Opposes as written			3	Owyhee	Doug Emery	Oppose
6	Caribou	S. Doug Wood	Oppose	3	Payette	Ross Pittman	Support
5	Cassia	Doug Abenroth	Oppose	6	Power	Anson Call	Oppose
7	Clark	Exempt	Non-Member	1	Shoshone	Keisha Oxendine	Oppose
2	Clearwater	Clayne Tyler	Oppose	7	Teton	Billie Siddoway	Oppose
7	Custer	Exempt	Non-Member	5	Twin Falls	Grant Loeb	Oppose
4	Elmore	Daniel Page	Oppose	4	Valley	Carol Brockman	Oppose
6	Franklin	Vic Pearson	Oppose	3	Washington	Delton Walker	Undecided
7	Fremont	Marcia Murdoch	Oppose		Supports Concept/Opposes as written		

Oppose:	Support:	Abstain:	Undecided:	Non-Member:
39	1	1	1	2

3-13-2019

Mr Chairman and committee members, my name is Quinn Perry and I'm the Policy and Government Affairs Director for the Idaho School Boards Association. I'm here today on behalf of the over 900 school board members from across the state who volunteer their time to serve their local school districts and charter schools. We stand in support of House Bill 209 and ask you that you send this to the floor with a do-pass recommendation.

Since ISBA is not in this committee very often, I thought I'd briefly explain the process of how our legislative platform is set. School districts and charter school boards pass resolutions and submit them to our association in July. We tour across the state explaining the impact of each one, and our members vote on them at our annual convention in November. This resolution came from the Moscow School District after experiencing every school's nightmare – where they had to deal with the aftermath when an individual made a threat on YouTube to shoot up two Moscow schools on a date 21 days in the future.

Panic ensued in the community, especially upon hearing that Moscow Police were only able to issue a misdemeanor citation. I've asked the page to pass out a letter from Superintendent Greg Bailey from Moscow School District explaining how those 21 days played out.

When the resolution passed our membership, ISBA worked closely with both Education and Law Enforcement stakeholders to draft this legislation. After a few rounds of discussion, it was decided that we reference the Threats Upon School Grounds statute that this body updated last legislative session and include it in the section of code before you.

Again, this legislation would make it possible for law enforcement to treat a threat upon a school as seriously as it would domestic violence, assault, or stalking by placing the individual under arrest and have them evaluated in police custody.

Thank you for allowing us to testify, and we ask for your support on House Bill 209. Thank you Mr Chairman and I'm happy to stand for questions.



Moscow School District #281

650 N. Cleveland St. Moscow, ID 83843 (208) 882-1120 fax (208) 883-4440 www.msd281.org

Dr. Gregory J. Bailey, Superintendent

Carrie Brooks, Curriculum Director
Jennifer Johnson, Business Manager

Charlie Gerke, Operations Director
Shannon Richards, Special Services Director

Administration
650 N. Cleveland
Moscow, ID 83843
208.882.1120
FAX: 208.883.4440

**Moscow
High School**
402 E. Fifth Street
Moscow, ID 83843
208.882.2591
FAX: 208.892.1136

**Moscow
Middle School**
1410 East D Street
Moscow, ID 83843
208.882.3577
FAX: 208.892.1182

**Lena
Whitmore
Elementary**
110 S. Blaine
Moscow, ID 83843
208.882.2621
FAX: 208.892.1202

**A.B. McDonald
Elementary**
2323 East D Street
Moscow, ID 83843
208.882.0228
FAX: 208.892.1216

**J. Russell
Elementary**
119 N. Adams
Moscow, ID 83843
208.882.2715
FAX: 208.892.1241

**West Park
Elementary**
510 Home Street
Moscow, ID 83843
208.882.2714
FAX: 208.892.1259

**Paradise Creek
Regional
High School**
1314 S. Main
Moscow, ID 83843
208.882.3687
FAX: 208.882.6815

**Support
Services
Facility**
FAX: 208.892.1265
Location:
2245 White Avenue
Facilities
208.892.1129
Food Service
208.892.1123
Transportation
208.882.3933

February 19, 2019

Impact Statement: Threat to Schools in Moscow

On March 29th of last year, a post was made on YouTube by a 26-year-old man from Moscow stating he was going to shoot up two schools in Moscow on April 18th. Luckily a police officer in Texas saw this posting and reported it to the Moscow Police Department. Unfortunately, due to the current laws of Idaho the police were unable to place him in custody because there were no weapons within the home. The impact that occurred to our community due to this threat and inability to place the person under arrest was in the form of loss of academic time for students, increased work load for staff, and emotional distress for the students, staff, and community.

I was notified by the Moscow Police Department (MPD) of the threat at 9:00 am on Thursday, March 29th. I later found out that the local newspaper published online information about the threat 20 minutes later. Knowing that the MPD was aware of the threat and was working on communicating with the person who made the threat, and the fact that the threat was to shoot up two Moscow Schools on April 18th, which was 21 days later, I thought I had time on my side. However, as a precaution I immediately notified all my building administrators of the threat and told them to be on high alert of strangers in the area.

Shortly after notifying my administrators, I was notified that the threat was being discussed on FaceBook, and our district, and especially myself, was being criticized for not immediately contacting all the parents and closing all the schools. It became obvious that due to the actions taken by this person making the threat, many parents had gone into a state of panic. From that moment, until a couple of days after the shooting was supposed to occur, I and many of my staff, were taken away from concentrating on our educational responsibilities.

I dealt with twenty-three days of being inundated with phone calls, emails, and meetings with parents and concerned patrons that were frightened and angry that someone would threaten their schools. Many of these people were scared enough that their thinking and actions were questionable and could have made things much worse. Here were just some of their comments and requests:

- parents wanting to patrol around the schools and sit in their car with gun.
- A large group of parents requesting to be allowed to walk the halls throughout the day.
- demanding fencing of the parameters of all of the schools with 6' fencing with razor wire on top.
- Wanting armed guards at each entrance of the schools
- putting steel covers over all the classroom doors
- arming teachers with guns
- closing school (21 days)

As you can imagine, most of these options cause an environment that is not nurturing and inhibits us from having a positive learning environment for our students. It places our students in a learning environment that is more appropriate for prisoners and contributes to fear within our students.

The threat, as well as the fear following the threat, also impacted our attendance, which equates to loss of learning. Here are the number of absences during the week that the threat was supposed to occur. You will also notice that the Friday absences were also very large. This is due to the day students marched to express their frustration with the number of threats and shootings occurring at schools.

District-Wide Absences (Enrollment 2,400)

<i>School</i>	<i>4/16/2018</i>	<i>4/17/2018</i>	<i>4/18/2018</i>	<i>4/19/2018</i>	<i>4/20/2018</i>
<i>Lena</i>	3	2	44	0	4
<i>McD</i>	3	2	51	3	10
<i>WP</i>	3	3	33	6	6
<i>Russell</i>	4	6	42	4	6
<i>MMS</i>	34	51	90	24	140
<i>MHS</i>	30	27	119	32	267
<i>Total/Day</i>	77	91	379	69	433

In Summary: The reckless decision to threaten our community's schools caused our students, staff, and community to be in a state of fear; a community that prides itself in being a safe community. Our parents and community members were upset that we did not have this person arrested and locked up, something I do not have the power to do. Unfortunately, the Moscow Police Department also were unable to arrest the man immediately due to current laws that are inadequate. This is why I am here today, The Moscow School District asks that you support House Bill 115 sponsored by Representative Goesling so our community does not have to live in fear as they did beginning on March 29th.

Thank You, and chairman I will be happy to stand for questions.

Sincerely,

Gregory J. Bailey

Gregory J. Bailey, Ph.D.
Superintendent

AGENDA
SENATE JUDICIARY & RULES COMMITTEE
1:00 P.M.
Room WW54
Friday, March 15, 2019

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL REAPPOINTMENT HEARING	Committee Consideration of Senate Confirmation of Dr. David McClusky for Reappointment to the Idaho State Board of Correction	Dr. David McClusky
<u>H 30</u>	Relating to Psychiatric Examinations	Blake Brumfield, Idaho Department of Health & Welfare
<u>H 139</u>	Relating to Foreign Defamation Judgments and to Provide Procedures	Representative Barbara Ehardt, Idaho House of Representatives
<u>S 1124</u>	Relating to Domestic Relations Relating to Visitation Rights of Grandparents and Great-Grandparents	Senator Dean Mortimer, Idaho State Senate

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Lee

Sen Lodge

Sen Anthon

Sen Thayn

Sen Grow

Sen Cheatham

Sen Burgoyne

Sen Nye

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Friday, March 15, 2019

TIME: 1:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Lodge, Anthon, Burgoyne, and Nye

ABSENT/ EXCUSED: Senators Thayn, Grow, and Cheatham

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the meeting of the Senate Judiciary & Rules Committee (Committee) to order at 1:00 p.m.

GUBERNATORIAL RE-APPOINTMENT HEARING: **Committee Consideration of Gubernatorial Re-appointment Hearing** of Dr. David McClusky for Re-appointment to the Idaho State Board of Correction (Board).

Dr. McClusky stated that he was a third generation physician in Twin Falls, Idaho. He served in the United States Air Force as an officer for four years. He mentioned being involved in several community organizations, including founding Camp Rainbow Gold, and starting the first hospice in the Magic Valley. He was the Chairman of the Tobacco Advisory Committee and co-founder of the Wellness Tree, which is a free clinic taking care of refugees, the homeless, and those recently released from prison. He has recently become a part of Joining Forces in the Magic Valley. Their focus is helping veterans receive medical and dental care. **Dr. McClusky** also indicated that he is a professor of surgery on the new medical school board in Boise.

Dr. McClusky said that he felt his medical background, plus his ability to work hard and to deal with those in the community who have lesser opportunities, are the things that he can bring to the Board. He explained that there were two elements he felt were important in his position on the Board. The first one is trying to make sure people do not have to go into the prison system. He sees the absence of early and good education, the absence of good mental health, and the absence of a safe caring home is what brought most of the people that are in the prison system to that system. The second element is providing help for those who are in the prison system by helping them get a good education, teaching them to take care of their health needs, and having an opportunity to work in the community.

H 30

Relating to Psychiatric Examinations. **Blake Brumfield**, Program Manager, Developmental Disability Crisis Prevention and Court Services, Division of Family and Community Services (Division), stated that **H 30** would be amended to require that if a defendant was thought not fit due to a developmental disability, a Division Evaluation Committee consisting of a psychologist, physician, and a social worker would perform an examination. There are obstacles related to using a school psychologist to perform these evaluations rather than a DD Evaluation Committee. It is difficult to determine malingering (faking incompetency) because of the challenge of gathering the patient's history. The Evaluation Committee meets and does examinations with people with disabilities so they are more familiar with the testing instruments and more experienced with interpretation. The Evaluation Committee is vetted by the director and they are licensed in their professions. If restoration is needed, an adequate assessment of risk is performed prior to placement and the patient would go into the least restrictive setting. **H 30** does not remove the defendant's ability to call their own experts to perform their own evaluations. According to 2018 statistics, it would cost the counties approximately \$1,000 to add a physician to the examination committee, while costs for the social worker are primarily borne by the Department of Health and Welfare (DHW). These changes are consistent with Children's Competency Evaluation, the Guardianship Code, and the Idaho Code for Civil Commitments. (See Attachment 1)

DISCUSSION:

Senator Anthon stated that his understanding was that a finding by the court is made to determine if the person is developmentally disabled. He asked if someone in a civil setting would be evaluated with the same amount of rigor to make sure their property and decision making power is not taken away. **Mr. Brumfield** responded that the Evaluation Committee presents the facts to the judge to come to his conclusion. The civil liberties are not removed in a civil matter unless they are found not fit to proceed after 270 days of restoration and then they will lose some civil liberties.

Senator Burgoyne asked Mr. Brumfield to clarify the role of the DHW in the evaluation process. **Mr. Brumfield** stated that if the evaluation result is that the person is not competent, then the burden falls to the DHW in terms of dealing with that person. Being involved in the initial evaluation helps the DHW to manage the individual with respect to their custodial obligations. The more time and history they have available to them, the more accurate the decision will be regarding placement. **Senator Burgoyne** referenced a letter from Kelly Kumm (see Attachment 2) and asked if Mr. Brumfield felt that **H 30** was being redundant. **Mr. Brumfield** replied that the courts and the Attorney General were interpreting it differently. He stated that the recommended changes will make it less ambiguous.

TESTIMONY:

Tom Arkoosh, representing the Association of Criminal Defense Council, stated that they oppose the passage of this bill due to its ambiguities. **Mr. Arkoosh** explained that in one proceeding the DHW pays for the commitment. In another instance, if the family or the individual committed can pay for it, they have to pay. The Eighth Amendment prevents excessive fines. There is litigation going on surrounding this issue. He stated that his understanding was if a developmental disability was determined and it goes in front of a committee, then a change in funding is required.

DISCUSSION: **Chairman Lakey** suggested working on the language and getting consensus from the people involved. **Senator Burgoyne** indicated that it was his understanding that there was a divergence of legal opinion on whether or not the bill would be redundant to existing law or not. **Mr. Brumfield** stated that he thought the issue was easily resolved by clarity in the language. He explained that at least 13 courts chose to use a school psychologist rather than an evaluation committee. This outcome is inconsistent with how he interpreted the language, but the courts' interpretation is different.

A discussion was held among **Senator Burgoyne**, **Senator Nye**, and **Mr. Brumfield** regarding the fiscal note. The fiscal impact will vary depending on how many competencies the Evaluation Committee does each year. Medicaid will pay for 50 percent of the evaluation costs.

MOTION: **Senator Burgoyne** moved to send **H 30** to the 14th Order of Business for possible amendment. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

H 139 **Relating for Foreign Defamation Judgments.** **Representative Barbara Ehardt**, District 33, House of Representatives, introduced **H 139** and said state courts have been put in a position to deal with libel suits, which are being called libel terrorism. Some federal legislation has not been successful causing states to pass their own laws. This bill has had wide bipartisanship support and media support. Representative Ehardt listed the states who have passed laws and they range from conservative to more liberal. The courts want the state legislatures to have the responsibility of articulating clearly what the State's public policy will be.

TESTIMONY: **Stephen Sharer**, Attorney, Meridian, Idaho testified in support of the bill. **Mr. Sharer** began his testimony by describing the two types of defamation law in Idaho including a statutory definition and a common law definition. Statutory defamation provides exemptions and protections for publications and broadcasting. Defamation consists of communication to a third person of false information which either intends to impugn the honesty, integrity, virtue or reputation of the person, or exposes that person to public hatred, contempt, or ridicule. **Mr. Sharer** stated that we need this law because we have protections that keep people from getting a judgment in the United States but we don't currently have protections against foreign judgments. This legislation will give instruction to the Idaho judicial system of how they should address the claims when a foreign judgment is entered in a different country and then filed in Idaho for collection. This law specifically addresses which judgments are valid and which ones are not. The law requires American due process and subject matter jurisdiction for the judgment to be granted in full faith and credit. It provides a statement regarding which judgments will not be recognized and allows an Idaho resident to obtain a declaratory judgment to determine whether or not the judgment should be enforced, provides protections for those who may have their judgments challenged in Idaho, and allows residents to seek injunctive relief.

DISCUSSION: **Senator Burgoyne** asked if there was anything in this law that would conflict with any of the treaties between the United States and foreign powers. **Mr. Sharer** replied that he did not know. **Senator Burgoyne** questioned whose law applies when an issue is raised. **Mr. Sharer** explained that if the question applies to a foreign court, that is exactly the issue that is being addressed in **H 139**. In the United States, the state which enters the judgment is entitled to full faith and credit in the State of Idaho. He stated that he was not aware of any law that has federal preemption that would preempt a defamation judgement. If a foreign court does not have personal jurisdiction over the defendant, or subject matter jurisdiction, a lawsuit can not continue. **Senator Burgoyne** asked if **H**

139 had been patterned on laws that have been adopted in other states. **Mr. Sharer** replied in the affirmative.

Representative Ehardt closed by stating that **H 139** will codify that which Idaho wants and what it values.

MOTION: **Senator Anthon** moved to send **H 139** to the floor with a **do pass** recommendation. **Vice Chairman Lee** seconded the motion.

Chairman Lakey commented that this bill was not triggered by someone from a foreign jurisdiction coming to Idaho and trying to enforce the judgment here but he could see circumstances where this bill would be needed. He suggested looking at the fiscal note due to the costs of possible trials and the impact on existing budgets.

VOICE VOTE: The motion to send **H 139** to the floor with a **do pass** recommendation passed by **voice vote**. **Senator Nye** requested that his nay vote be recorded.

S 1124 **Relating to Domestic Relations Regarding Visitation Rights of Grandparents and Great Grandparents.** **Senator Dean Mortimer**, District 30, Idaho Senate, introduced **S 1124** by giving a brief background on the history of grandparent legislation. Idaho has a statute that has not been updated since 1994. It is time for Idaho to have some clarity on the parameters not only for grandparents' and the great grandparents' rights, but also what it would take to make sure that parents rights are protected.

DISCUSSION: **Vice Chairman Lee** requested a copy of the amendments for **S 1124** for the Committee to reference (see Attachment 3).

TESTIMONY: **Brian Defriez**, attorney, Caldwell, Idaho, stated that one of the benefits of the new statute is that it puts Idaho litigants, petitioners, grandparents, and great grandparents on notice of the constitutional requirements that already exist in case law. It takes those tenants and makes them available so that petitioners can know what is required of them in petitioning and what the burdens of proof are. One other benefit of this legislation is that in the *Leavitt v. Leavitt* case, the Idaho Supreme Court made a point that grandparent visitation in Idaho is not subject to the best interest factors that apply in normal custody disputes. This legislation adds a comprehensive set of best interest factors which the Supreme Court has deemed constitutional. **Vice Chairman Lee** commented that she is concerned about inserting "best interests" in any significant policy proposal. She has worked on other legislation and the "best interests" issue has not been resolved. **Mr. Defriez** stated that he sees the new legislation being consistent with the policy adopted in 1972. It gives a set of criteria that judges can look to in determining best interest. Litigants are given notice that factors are giving heightened protection to parents. They are giving parents a voice in the decision regarding visitation and it can only be overcome by clear and convincing evidence that it will be in the child's best interests. The legislation contains a definition for visitation which clarifies that it is limited to contact with the child and it is not to be extended to anything that would approximate legal or physical custody rights. The courts are also allowed to award reasonable attorney fees if it finds the petitions are brought without foundation.

DISCUSSION: **Vice Chairman Lee** questioned where the venue would be. **Mr. Defriez** stated that venue and jurisdiction generally mean the place where the defendants reside. **Vice Chairman Lee** was concerned with the unfair imbalance in relation to visiting privileges and finances. **Mr. Defriez** stated that of the Idaho cases he was aware of, every effort was made to protect the parents' rights. That protection is not absolute in the sense that the State still retains interest in looking after the best interest of the children. In addressing the financial burdens, **S 1124** would allow the courts to award reasonable attorney fees to the parent when the court finds a petition was pursued unreasonably or frivolously.

A discussion was held among **Vice Chairman Lee**, **Senator Anthon**, **Senator Burgoyne**, **Senator Mortimer**, and **Mr. Defriez** regarding how important grandparents can be in the lives of children when there is a breakdown in their homes. **Vice Chairman Lee** expressed concern about an uneven balance from the courts with respect to the parents. **Mr. Defriez** reiterated that in his opinion this legislation would strengthen parents' rights because it puts into code the tenants of rebuttable presumption. **Senator Mortimer** indicated that he agreed that there can be a disparity between finances. He believes that the change of legislation requiring the party who does not prevail to be responsible for costs, may be somewhat of a protection.

MOTION: **Senator Nye** moved to send **S 1124** to the 14th Order of Business for possible amendment. **Senator Lodge** seconded the motion. Motion carried by **voice vote**.

ADJOURNED: There being no further business, **Chairman Lakey** adjourned the meeting at 2:35 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

House Bill 30 Fact Sheet

3-15-2019

House Bill 30 Amends §18-211:

HB30 would assure if an individual is suspected to be incompetent to stand trial due to a developmental disability (DD), the evaluation to determine competency must be performed by an Evaluation Committee consisting of a Psychologist, Physician, and a Social Worker. This change matches several other DD related statutes that require an evaluation committee.

§18-211(9) is Ambiguous:

18-211(9) In addition to the psychiatrist or licensed psychologist, the court may appoint additional experts to examine the defendant. In the event a defendant is suspected of being developmentally disabled, the examination shall proceed with those experts set out in §66-402(7).

In SFY 2018, 13 Idaho courts chose to utilize a psychologist to examine an individual with a developmental disability, pursuant to 18-211(9); while 45 Idaho courts chose an Evaluation Committee to examine individuals with developmental disabilities.

Issues:

Courts have occasionally (13 in SFY 2018) utilized a psychologist working alone rather than an Evaluation Committee to perform developmental disabilities competency evaluations. A small number of these evaluations have significant issues:

- Malingering (faking incompetency) is more difficult to assess by a single practitioner.
- History is often not accounted for; a developmental disability must occur prior to age 21.
- Psychologists utilized with little DD experience and little competency experience.
- Testing instruments used that are not meant for DD clients.

Poor Results:

Clients have been wrongly declared incompetent (clients faking disability or poor recommendation). Almost invariably, months or years later, these clients are found competent either through proof of malingering or restoration efforts. Clients then go to trial. Placement with a false negative causes several issues:

- *Victimization*: Higher functioning malingering clients have been placed with individuals with significant disabilities, creating a high risk of victimization.
- *Delay in Justice*: Higher functioning clients placed in restrictive placement (24-hour oversight, ankle monitors) with DHW oversight. Competency is eventually established, and client is adjudicated. Minor offenders may be in restrictive DHW custody and placement far longer than the criminal penalty (jail time) would have been if they had been convicted for the crime.

- *Criminal Elopement*: Higher functioning clients evade unlocked DD systems and abscond.

Evaluation Committee Composition:

Social Worker, Psychologist, and Doctor with specialized training in developmental disabilities and competency assessment. Committee members are vetted by DHW Director and licensed in their profession with oversight of their respective Boards. Evaluations Committees are available in every part of Idaho. If the defendant does need restoration by DHW, the Evaluation Committee involvement ensures an adequate assessment of risk prior to placement in least restrictive setting.

Evaluation Committees Required in Other DD Statutes:

Requiring the Committee for 18-211 creates consistency in Idaho statutes as the following actions require an Evaluation Committee.

- **§20-519A**: DD Competency evaluation for children.
- **§66-404**: DD Guardian or Conservator evaluation.
- **§66-406**: DD Civil Commitment.

DD Competency Evaluation Statistics:

State Fiscal Year	Evaluation Committee Competency Reviews
2019 (YTD)	20
2018*	45
2017	33
2016	30
2015	13
2014	12

*13 DD Competency Evaluations occurred without an Evaluation Committee in SFY 2018.

Court Processes and Competency Evaluation:

Prosecutors and Defense Attorneys can and do utilize psychologists and other experts outside of evaluation committees to testify regarding competency.

Fiscal Impact:

Under HB30, counties would have the additional expense of utilizing a physician for each evaluation, estimated at \$1,000 for each evaluation. Last year 13 evaluations would have had this additional expense if HB30 were in effect resulting in a total cost of \$13,000 in Idaho.

Sharon Pennington3-15-2019

From: Kelly Kumm <kummlaw1@gmail.com>
Sent: Friday, March 15, 2019 10:41 AM
To: Sharon Pennington
Subject: HB 30

Ms. Pennington:

Below are my thoughts on this particular bill set for hearing this afternoon. You asked me to submit an email rather than to sign up to testify by phone. I trust my comments will be forwarded to the committee for their consideration.

I am a defense attorney and a member of the Legislative Committee for the Idaho Association of Criminal Defense Lawyers. I am a past president of that organization and DisAbility Rights Idaho. In that capacity, I am keenly interested in legislation which may impact the procedures and rights for criminal defendants who suffer from a mental illness or disability.

I started following H. B. 30 when it arrived in the House committee earlier this year. I have discussed the bill with the legal director of DisAbility Rights. I heard comments from members of the committee earlier in the session which seemed to signal a need for more input on this bill. Consequently, I submit the following.

We have three main concerns with this bill as written:

- 1) The amendment is redundant. Section 9 of the statute already provides that, in the event a defendant is suspected of being developmentally disabled (DD), the examination SHALL be conducted by an evaluation committee, as defined in subsection (7) of section 66-402 of the Idaho Code. The Statement of Purpose for the bill incorrectly states that the court has an option of appointing a committee if the court suspects a DD.
- 2) The motivation of the Department of Health & Welfare for bringing this bill is unclear. As Idaho Code Sec. 66-402(7) states, the director of the department, or his designee, appoints the evaluation committee members. The criminal defense bar has concerns that the director may "stack" the committee with members who seek to find the defendant competent, thereby avoiding the need house a defendant who is found to be incompetent. See Sec. 18-212(2). It's my understanding that the Department is responsible for the costs of this confinement.
- 3) The Fiscal Note is vague and doesn't allow the reader to accurately identify how many potential defendants will be affected by this bill. If the fiscal impact on the courts is \$13,000 to pay physicians, is that impact for one defendant, or more? Why is the impact on the Department only \$1,950? If the impact is as small as claimed, is there any real necessity for the amendment?

The reach of this bill is very limited and it remains to be seen if the effect on defendants would be positive or negative. The criminal defense bar does know that this issue is litigated and often pits the Department against a finding of incompetency. It is a difficult decision for the courts. An example of such a struggle can be found at State v. Hamlin, a 2014 case from the Court of Appeals. In that case, no evaluation committee was appointed and there were numerous arguments between the private and public experts, with the Department's experts claiming greater expertise when dealing with issues of competency.

Since this bill does nothing to improve on existing law, we urge the committee to reject this bill. Thank you for your time.

--

Kelly Kumm

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--

Kelly Kumm

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Telephone: (208) 232-5557
Facsimile: (208) 232-1192**

3-15-2019

LEGISLATURE OF THE STATE OF IDAHO
Sixty-fifth Legislature

First Regular Session - 2019

Moved by MortimerSeconded by RiceIN THE SENATE
SENATE AMENDMENT TO S.B. NO. 1124

AMENDMENT TO SECTION 2

1 On page 1 of the printed bill, in line 23, delete "when access to such
2 children"; delete line 24, and insert: ". The"; delete lines 30 and 31, and
3 insert: "rights with a child."; and in line 32, delete "As used in" and in-
4 sert: "For purposes of".

5 On page 2, in line 6, delete "'Parent" may include a stepparent"; delete
6 lines 7 and 8; following line 12, insert:

7 "(6) "Visitation" means contact with a grandchild or great-grandchild,
8 whether in-person contact, phone contact, electronic mail contact, social
9 media contact, or other means of in-person or virtual contact. "Visitation"
10 does not include legal or physical custody rights over the child and does
11 not include decision-making authority over the health, safety, education,
12 or general welfare of the child.";

13 delete lines 15 and 16, and insert: "rights with the child."; delete lines 17
14 through 30, and insert:

15 "(2) The district court shall apply a rebuttable presumption in favor
16 of a fit parent's decision regarding visitation, which presumption can only
17 be overcome by clear and convincing evidence that visitation would be in the
18 best interests of the child, in accordance with the factors set forth in sec-
19 tion 32-1804, Idaho Code.

20 (3) The district court shall give the parent's decision special weight
21 when considering the parent's evidence and the petitioner's rebuttal evi-
22 dence.

23 (4) The district court shall not substitute its opinion on visitation
24 for that of a fit parent.

25 (5) The district court may grant a petition and issue an order estab-
26 lishing reasonable visitation rights if the court finds that such visitation
27 is in the best interests of the child.

28 (6) In cases where both parents have custodial time with the child, the
29 district court shall award visitation only during the scheduled custody time
30 of the parent to whom the petitioner is a parent or grandparent, as defined in
31 this chapter.

32 (7) The district court may award reasonable attorney fees to the parent
33 when the court finds that the petition was brought or pursued unreasonably,
34 frivolously, or without foundation.

35 (8) The district court shall make findings of fact and conclusions of
36 law in support of visitation awards made under this chapter.";
37 in line 31, following "determining" insert: "whether visitation would be
38 in"; in line 36, following "length" insert: ", nature,"; in line 40, delete
39 "detriments and"; also in line 40, delete "or"; in line 41, delete "denying";
40 and in line 42, delete "or denying".
41

1 On page 3, delete lines 1 through 3, and insert:
2 "(8) The character and fitness of the petitioner;
3 (9) The relationship between the parent and the petitioner; and
4 (10) The wishes and preferences of the parent regarding visitation."

AGENDA
SENATE JUDICIARY & RULES COMMITTEE
1:00 P.M.
Room WW54
Monday, March 18, 2019

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Approve the Minutes of January 23, 2019	Senator Lee
MINUTES	Approve the Minutes of January 30, 2019	Senator Lodge
MINUTES	Approve the Minutes of February 6, 2019	Senator Thayn
MINUTES	Approve the Minutes of February 13, 2019	Senator Nye
RS27129	Relating to the Continuance of an Interim Committee to Study Occupational Licensing	Senator Lakey
H 170	Relating to Child Protection to Establish Provisions Regarding a Certain Notification and Waiver	Representative Heather Scott, Idaho House of Representatives

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Lee

Sen Lodge

Sen Anthon

Sen Thayn

Sen Grow

Sen Cheatham

Sen Burgoyne

Sen Nye

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, March 18, 2019

TIME: 1:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Lodge, Thayn, Grow, Cheatham, Burgoyne, and Nye

ABSENT/ EXCUSED: Senator Anthon

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the Senate Judiciary and Rules Committee (Committee) to order at 1:00 p.m.

MINUTES APPROVAL: **Vice Chairman Lee** moved to approve the Minutes of January 23, 2019. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

Senator Lodge moved to approve the Minutes of January 30, 2019. **Senator Grow** seconded the motion. The motion carried by **voice vote**.

Senator Thayn moved to approve the Minutes of February 6, 2019. **Vice Chairman Lee** seconded the motion. The motion carried by **voice vote**.

Senator Lee moved to approve the Minutes of February 13, 2019. **Senator Thayn** seconded the motion. The motion carried by **voice vote**.

RS 27129 **Chairman Lakey** indicated that **RS 27129** is a concurrent resolution to continue the Interim Committee to Study Occupational Licensing. The RS will go to the Commerce and Human Resources Committee after printing.

MOTION: **Senator Grow** moved to print **RS 27129**. **Vice Chairman Lee** seconded the motion. The motion carried by **voice vote**.

H 170 **Representative Heather Scott**, District 1, presented **H 170**. She stated that the Idaho Department of Health and Welfare (DHW) is charged with investigating allegations of neglect, abuse, and abandonment of children. The proposed legislation would provide a notification of rights. The DHW social workers would present the parents with a list of their constitutional rights when they are in direct contact with the parents or guardians of a child who is subject to investigation. There are no penalties if they forget the sheet, no signatures are required, and no reading of rights. **Representative Scott** explained the notification form (see Attachment 1). She discussed the background on the Child Protective Act. In 1974 Congress passed the Child Abuse Prevention and Treatment Act, known as CAPTA. It mandated that all the states establish a procedure to investigate suspected incidents of child mistreatment. Idaho requires mandatory reporting by anyone that suspects abuse. Failure to report abuse, neglect, or abandonment is a misdemeanor. She gave statistics regarding the number of cases reported, investigated, and the number of children actually removed from their homes in 2018. Out of the 10,000 visits, 1,374 (approximately 14 percent) of the children were taken into State custody. **Representative Scott** stated that this legislation is not intended to, and does not reduce the role of Child Protective Services (CPS). Her concern is that CPS social workers' policies require information to be collected for their comprehensive safety assessment reports, including detaining and

questioning children, assessment of family philosophies, and home photographs and inspections. Her opinion is that while parents can say "no," they seldom do, and her assumption is that it is because they do not know they can say "no." **H 170** is a bill containing a directive to CPS social workers to hand a parent or guardian a piece of paper with their rights listed upon initial direct contact. It will not diminish the important role of CPS.

TESTIMONY: **Scott Herndon**, District 1, began his testimony by enumerating the rights in **H 170**. He stated it is about giving parents knowledge of the current law, it does not grant any rights that the parents do not already possess. It gives a balance of interest represented by both the State in protecting truly abused, neglected, or abandoned children. There is also the parents' interest in protecting the privacy and dignity of their home and their relationship with their child. Regarding parents' interests, **H 170** is only disclosing rights they already possess when dealing with CPS. It is important to know the rights of first contact because this is when there is the potential for maximum intrusion into the family's home and privacy. The Fourth Amendment to the Constitution grants parents the right to be free from unreasonable search and seizure. If a parent says no, there is no probable cause with exigent circumstances. A search warrant is required. This amendment involves any interaction between the CPS and the right to question children and their families and the right to enter their home or to detain them. There are case studies that show there is damage actually done to children when the government over-intrudes into family life. It can cause emotional harm and psychological damage. Having the parents know their rights does not mean that the CPS cannot fulfill its interest in protecting children.

DISCUSSION: **Senator Burgoyne** asked what would happen if a child protection worker violated the parents' constitutional rights, would the parents have a remedy without the passage of **H 170**. **Mr. Herndon** responded in the affirmative. There is a legal remedy in the federal courts where if a representative of the government under the color of law violates the constitutional right of the parents, they can bring suit in federal courts to obtain a legal remedy.

TESTIMONY: **Francine Frank**, Ada County resident and licensed master social worker, shared her concerns about **H 170**. She indicated that she fears it would have a negative impact by putting the most vulnerable children of Idaho at increased risk for abuse and neglect. CPS makes their best effort to ensure childrens' safety in the least restrictive environment, preferably in their own homes. This bill would require the social worker to advise parents or caregivers of their Miranda rights. Those rights are a function of a criminal investigation interrogation. Social workers are not law enforcement officials or attorneys. To begin an interaction with parents in such a manner would interfere with relationships and trust between the social worker and parents. It would result in some cases being delayed or in decreased access to the children. Minutes count when children are in danger. **Ms. Frank** asked for the Committee to vote no on **H 170**.

Christine Tiddins, Idaho Voices for Children, stated that they were in opposition to **H 170**. She discussed the three main reasons for their opposition. The proposal 1). does not place a priority on children; 2). could interfere with the State's responsibility to protect children from abuse and neglect; and 3). does not reflect the feedback being heard from individuals and communities who have been impacted by foster care (see Attachment 2).

Lindsay Harrington, former CPS worker, indicated that she had concerns about **H 170**. She explained that if child protection workers were asked to obtain probable cause before entering a home, this may greatly reduce their ability to ensure immediate safety for the children. Her second concern is that obtaining probable cause is outside the assessment scope of child protection. They are not completing criminal investigations or not looking to charge anyone and they can not legally remove children from the home. Another concern she has is that reading the rights to parents will diminish CPS's ability to build rapport and help families who are struggling; they will work against families rather than with them to build better lives. **Ms. Harrington's** last concern is with the barriers in the foster care system. She feels strongly that those involved need to listen to the young people impacted by foster care.

Darren Mitchell, Sergeant, Special Victims Unit, Boise Police Department, indicated that this bill contains conflicting language. The bill states that the DHW investigation is not criminal, but immediately thereafter states that the rights understood by most people are related to criminal processes. This may confuse people about the true nature of the contact. Notifying parents of these rights typically associated with criminal jeopardy before having made any other assessment of the situation will lead to misconceptions and inaccurate interpretations.

DISCUSSION:

Senator Burgoyne commented that he felt this hearing was leading to trusting social workers and people outside of the home more than the parents. Trying to arrive at a balance would be important. **Sergeant Mitchell** stated that more children wind up being removed from the home because there is not an answer as to how the injury occurred; the presumption would be that it occurred in the home. The result would be removing the child to keep him safe until the investigation is completed. **Senator Burgoyne** asked what evidence had to be presented to a judge to get a court order. **Sergeant Mitchell** indicated that he was not sure of the verbiage but thought that it was "reasonable suspicion."

TESTIMONY:

Michael Kane, representing the Idaho Sheriff's Association (Association), spoke in opposition to **H 170** and stated it is not just about parents. It protects everyone who might be living or visiting the home. There is a disconnect in civil matters. The DHW is directing this investigative effort; the CPS workers do not have the ability to get search warrants or arrest warrants. They are civil people dealing with a civil process. The subject rights are not given to criminal suspects until there is either an arrest or detention. Miranda rights are not given until a person is in custody. **Mr. Kane** said that the Association is very concerned that there will be a new exclusionary rule invented by the courts as a result of this statutorily created series of rights.

Ivy Smith stated that she is in opposition to **H 170**. She was in the foster care system since she was 12 years old. She shared her experience (see Attachment 3). **Ms. Smith** said her experience shows the kinds of dangers children would be put in if social workers were required to notify the parents before beginning a safety assessment. When people call in from the community to report to CPS about possible abuse or neglect, this legislation would only hinder CPS worker's ability to conduct the investigations in a timely manner and get a clear story. **Ms. Smith** pointed out that there was no attempt made to collaborate with the Foster Youth Advisory Board.

Dustin Ingram, representing himself, spoke in favor of **H 170** and disputed the earlier statement that there is no such thing as a warrant to examine a child. He stated that if a child is taken out of a home because his parents refuse to allow a medical exam, the children are run through rape kits and forensic interviews conducted by law enforcement and a social worker. **Mr. Ingram** indicated that there is a course of things that happen to the children without the parents' consent or knowledge and those things take place before a court hearing is held. He said warrants can be obtained with reasonable suspicion and that legal standard is very low. He felt that taking a child out of a home that is dirty or because the parents are standing up for their rights is not right. **Mr. Ingram** stated that DHW can not be trusted to police themselves. The majority of people are good parents but they are being forced to go to court to prove their innocence.

Erica Kallin, representing the Idaho Prosecuting Attorneys Association (IPA), stated she had submitted a letter in opposition to **H 170** (see Attachment 4). She reiterated that when CPS is denied access to children, which this legislation is proposing, it will have a chilling affect on the DHW's ability to protect children.

Tom Arkoosh, representing the Association of Criminal Defense Lawyers, testified in favor of this legislation. **Mr. Arkoosh** stated that there are no new rights created by **H 170**. This is a notification bill in which parents and children have the right against unreasonable search and seizure, the right to remain silent and legal advice in approaching the matter in a rational way. His concern is about the representation being given. If there is reasonable suspicion to believe that the child is in danger, the agency should have an order to approach the house. **H 170** is an opportunity for a legislative solution to resolve these issues.

Kieran Donahue, Canyon County Sheriff, testified in opposition to **H 170**. He stated that a police officer's job is to protect the constitutional rights of every individual. He explained that getting a search warrant requires probable cause, and reasonable suspicion was never enough reason. In the overall protection of society, it is important to err on the side of the children. He indicated that forensic interviews are valuable for those who are trained to use them in the interviewing process. **Sheriff Donahue** stated that it is important to not penalize the system because of the actions of a few.

David Jeppsen, Director, DHW, stated that he takes his responsibility to ensure the health and safety of all Idahoans, especially children, seriously. He indicated that it was important for his staff to have the ability to have eyes on the children, to talk to them, and interview family members to assess the safety factors and risks of the home. **Director Jeppsen** said that he was particularly concerned with children under the age of five since many of them have no outside contact. Idaho law requires a follow up on all allegations and the conduction of a comprehensive assessment ensuring the safety of the child. The role of the CPS worker is to determine if the child is safe. He made a commitment to make sure that if one of his staff violates the rights of any individual, he will take the appropriate action. **Director Jeppsen** stated he was anxious to work with the legislature and advocates to improve the process of keeping children safe.

Representative Scott concluded her presentation by stating that this bill is a directive to the DHW, CPS social workers to hand a parent or guardian a piece of paper with their rights upon initial direct contact. The bill does not require that the rights be read to the parents. The form presented at the door is not Miranda rights. She commented that **H 170** is talking about earlier stages of helping children than foster care covers, and it was not discussed in the legislation. **Representative Scott** stated that she feels this bill will put parents and government on an equal playing field and it is not giving parents additional rights.

DISCUSSION: **Vice Chairman Lee** inquired how children under five and those who are home schooled get the added attention they need. **Representative Scott** replied that she would hope parents would be reasonable and answer their questions since that does not raise suspicion that something is wrong in the home. If that does not occur, a deeper investigation would be needed.

WRITTEN TESTIMONY IN OPPOSITION: The following people submitted written testimony in **Opposition** to **H 170**:

Christine Tiddens, Idaho Voices for Children (See Attachment 2)
Ivy Smith, Former Foster Youth (See Attachment 3)
Erica Kallin, Idaho Prosecuting Attorneys Association (See Attachment 4)
Chris Orvis, Idaho Fraternal Order of Police (See Attachment 5)
KJ Brandt, North Idaho CASA (See Attachment 6)
Amanda Roberts, Licensed Social Worker (See Attachment 7)
Sadie Heindel, Licensed Social Worker (See Attachment 8)
Breanne Varela, Licensed Social Worker (See Attachment 9)
Vaughn Killeen, Executive Director, Idaho Sheriffs Association (See Attachment 10)
Elizabeth Norton, Former Foster Youth (See Attachment 11)

WRITTEN TESTIMONY IN FAVOR: The following people submitted written testimony in **Favor** of **H 170**:

ACLU of Idaho (See Attachment 12)
Miste Karlfeldt, Executive Director, Health Freedom of Idaho (See Attachment 13)

MOTION: **Senator Burgoyne** moved that **H 170** be held in Committee. **Vice Chairman Lee** seconded the motion.

DISCUSSION: **Senator Burgoyne** commented that he felt there was increasing legislation conveying the message that Idaho does not have good laws. He does not feel that way. He stated that people in Idaho have unique views about their property rights, their rights in their homes, their security in their homes and they are often very well armed. **Senator Burgoyne** is concerned that giving the notice proposed in **H 170** is going to promote a confrontation because the information in the notice is not accurate. **Chairman Lakey** added that he does not have an issue with giving parents information about the process but he is concerned with the information in regard to exigent circumstances. He suggested giving this legislation to the legislative review panel and letting them work on it. **Vice Chairman Lee** agreed that **H 170** has focused attention on an issue that requires further discussion. **Senator Grow** commented that handing someone a piece of paper listing constitutional rights and having the right to an attorney may cause a confrontational interaction between the CPS and the parent. **Senator Thayn** stated that he would not be supporting the motion because he sees **H 170** as a way to educate parents about their rights and he believes more respect on both the side of the parents and the CPS workers would be beneficial.

VOICE VOTE: The motion to hold **H 170** in Committee passed by **voice vote**. **Senator Thayn** requested that he be recorded as voting nay.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 1:37 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

Idaho Department of Health and Welfare
Office Address
Office Phone Number

3-18-2019

Dear Sir or Madam:

Be advised that you are the subject of an investigation by the Idaho Department of Health and Welfare for potential child abuse, abandonment or neglect. This is not an indication that you are the subject of a criminal investigation. Now and throughout this investigation, you have certain rights:

1. You have the right to remain silent and to refuse to answer questions.
2. You have the right to refuse entry to your home or other premises if there is no warrant of a court.
3. You have the right to consult with an attorney at your own expense and to have that attorney present during questioning.
4. You have the right to refuse the questioning of minor children in your home or on your property if there is no warrant to examine your children.

If you have waived all or some of your rights as explained and change your mind during the investigation, please inform the department immediately of your desire to exercise your rights.

3-18-2019



March 18, 2019

Mister Chairman and Members of the Committee,

My name is Christine Tiddens. I am with Idaho Voices for Children, a nonprofit that serves as a voice for kids in policy discussions. We are here today in opposition of House Bill 170. Our concerns about the bill stem from three main points: (1) the proposal does not place a priority on children, (2) the proposal could interfere with the State's responsibility to protect children from abuse and neglect, and (3) the proposal does not reflect the feedback we are hearing from individuals and communities involved in foster care.

- 1) We believe that the health and well-being of kids must be a top priority in every legislative discussion. Children are our most vulnerable population, and their voices can be easily left unheard, especially if they are too young to speak up, isolated from their community, or are being mistreated. When we forget to prioritize kids, when we neglect to take time to listen, and when we become complacent and let things slide, the outcome can be the loss of a child's life. We are concerned that House Bill 170, and the intent behind it, is not focused on the best interest of children and does not put kids first.
- 2) It is our collective responsibility to ensure the safety of children in Idaho, and we are all charged with reporting suspicions of child abuse and neglect. Idaho has tasked the Department of Health & Welfare with immediately following-up on these reports to assess whether a child is, in fact, being abused or neglected. Any legislation that adds steps that interfere with this duty puts children in harm's way. For example, if the Department is delayed from assessing a child's safety in their home, law enforcement will have to be called to assist, resulting in delayed response times, escalated conflict, and more children removed from their homes during assessments.

More often than not, kids aren't removed from their homes during and after an assessment. This does not mean, however, that the reports were found to be baseless. The Department social workers often provide support to families so that removal is unnecessary. For example, a visit from a social worker may uncover a freezing house with empty cupboards; they can provide resources to a local food bank and assistance with paying an electric bill. Instead of increasing fear, distrust, and confusion upon first contact – as House Bill 170 would do – we want to encourage families to participate in assessments so that needs can be identified and families can be connected with resources to keep kids safe at home.

- 3) Idaho's child welfare and foster care systems are complicated, with multiple components, interests, and moving parts. Policies should not be rushed forward, as they could have unintended consequences and cause more harm than good. To fully investigate gaps within the system and opportunities to create positive change, policymakers should take time to listen to youth, families, advocates, the courts, and law enforcement and consider relevant research and evaluations, such as recent reports from the Idaho Office of Performance Evaluation and the new Citizen Review Panels.

There are multiple groups already collaborating on advancing real solutions. For example, last month's Foster Care Awareness Day at the Capitol brought together hundreds of people from a variety of backgrounds, all committed to improving child welfare outcomes. Participants had the opportunity to share education and first-hand experiences with legislators.

About Foster Care in Idaho

Last year, the Idaho Department of Health & Welfare received 23,599 referrals from the public regarding concerns of abuse, neglect, or abandonment of children. When a referral is received, it is assessed and prioritized for response. Referrals involving a life-threatening and/or emergency situation require an immediate response, in which the Department coordinates action with law enforcement. All other reports require a safety assessment by the Department within 24 or 72 hours. Last year, the Department conducted over 10,000 of these safety assessments. Most of the assessments resulted in families receiving referrals to services to address concerns or meet specific needs they have.

Seventeen percent of referrals are determined to meet the statutory definition of child abuse or neglect. When this determination is made, the Department informs families - in writing - of certain rights, including their due process rights to appeal the substantiation. A child can only be removed from the home by law enforcement or by court order. Last year, 1,292 children entered foster care in Idaho. Almost half (47 percent) of these children are under the age of five. Last year, there were a total of 1,104 licensed foster families.¹

In 2017, almost three-quarters (72 percent) of Idaho's children in foster care were safely reunited with their birth parents or extended family, and 16 percent of these children were adopted. Five percent of the youth aged out of the system, meaning that they turned 18 while in foster care. Of the children returning home, 96 percent did not experience a repeat occurrence of maltreatment within six months.²

Foster care has been a topic of discussion at the Idaho Legislature in recent years, with an interim committee convening in 2017 and 2018 to study the foster care system.³ Subsequent reports by the Idaho Office of Performance Evaluations, as requested by the committee, evaluated the child welfare system as a whole⁴ and court representation for children and youth in child protection cases.⁵ Significant findings of the two reports include:

- Gaps in placement services, program capacity, organizational culture, and system-level oversight prevent the state's child welfare system from performing at the high level of expectation set through policy making and program design processes.
- Organizational culture is undercut by a constant feeling of crisis. Social workers described a detrimental cycle of priority and compromise.
- A worsening shortage of foster parents threatens the fidelity of the child welfare system.
- Idaho's Child Protective Act requires court-appointed representation for children and youth who are the subjects of child protection cases. Gaps in representation have occurred, and the state does not have a way to validate all children and youth are being served.

On February 28, 2019, the Child Protection Legislative Oversight Committee, a special legislative committee convened to provide review and oversight for the foster care system in Idaho, met for the first time.⁶ The committee discussed the Idaho Office of Performance Evaluations' findings and heard a presentation from a group of youth impacted by foster care.

¹ Idaho Department of Health & Welfare, 2018. "[Facts, Figures and Trends](#)."

² KIDS COUNT, 2018. "[Idaho Data Center Indicators](#)."

³ The [Foster Care Study Committee](#) was established in [House Concurrent Resolution 19](#), 2017.

⁴ Office of Performance Evaluations, 2017. "[Child Welfare System](#)."

⁵ Office of Performance Evaluations, 2017. "[Representation for Children and Youth in Child Protection Cases](#)."

⁶ The [Child Protection Legislative Oversight Committee](#) was established in [Senate Bill 1341](#), 2018.

Ivy Smith's Testimony

March 18, 2019

Good Afternoon Mr. Chairman and members of the Committee, my name is Ivy Smith and I am here to testify in opposition to HB 170. I would first like to share that I entered the foster care system when I was twelve years old and remained in care until I aged out in 2016. My experience entering the foster care system was very traumatic for me and my story shows exactly what could happen if you pass this bill.

*I had a friend over one day after school and she had witnessed what happens when my mother loses her temper. That friend went home and told her parents what she saw and her parents immediately called CPS. The next morning my friend's mother called me and told me they just wanted to give me a heads up that they had reported my mother to CPS and they were going to launch an investigation. I was only twelve at the time and was scared of what that would mean, so I told my mother what happened. My mother stormed out to the garage, grabbed a suitcase, came back to throw it at my feet and said: "pack up your sh** and get out". I began crying and begging my mom not to kick me out. I pleaded to her that it wasn't my fault and I would say anything, but she had made up her mind. I ran up to my room and barricaded the door with my bookcase. My mother was pounding on the door screaming at me what she was going to do to me once she got in. Luckily, she never got through and she eventually gave up and went to bed. I was able to sneak out of the house in the morning to go school and little did I know that I would never be coming back.*

I share this story with you because it shows the kinds of dangers we would be putting children in if social workers are required to notify and read parents their rights before beginning a safety assessment. To assume that these parents are in a reasonable mindset and will act on the child's best interest is not only dangerous but is also naïve.

We know from reports from the Office of Performance Evaluations and from the interim Foster Care committee last year, that when people from the community call to report cases to CPS that they get it right about 99% of the time. This bill would only hinder social workers' ability to conduct these investigations in a timely matter and get a clear story. I would also like to point out that there was no attempt to collaborate with former foster youth, like from the Idaho Foster Youth Advisory Board, which I feel should have been a crucial step in the creation of this bill.

Mr. Chairman and members of the Committee, HB 170 puts the rights of parents over the rights of Idaho's most vulnerable children. I urge you to please vote no on HB 170.



Idaho Prosecuting Attorneys Association, Inc.

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Attachment 4

3-18-2019

2019 Officers

President

Jan Bennetts
Ada County

Vice President

Daniel Clark
Bonneville County

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Legislative Counsel

Holly Koole-Rebholz

Traffic Safety

Resource Prosecutor
Jared Olson

Administrative

Assistant
Stephanie Lamkin

The Idaho Prosecuting Attorneys Association's Opposition to HB 170

Dear Chairman Dayley and Members of the Judiciary, Rules, and Administration Committee,

"...At all times, the health and safety of the child shall be the primary concern...." Idaho Code ("IC") §16-1601; Child Protective Act.

HB 170 elevates the rights of parent or caregiver citizens, who may be abusing or neglecting children, over the rights of child citizens, who have a right to be safe.

Imagine this scenario: A ten year old girl who has been sexually abused by her father since she was five years old finally discloses to a friend at school, who tells a teacher, who tells the principal, who calls in a referral. The child is now huddling in a fetal position in the corner of her closet while social workers knock on the door of her home; she knows why they are there. Dare she hope that her salvation is finally at hand? No; instead, the abuser answers the door, hears the warning, turns them away, and marches upstairs to belittle, gloat, and rape her again. She is lost. She will never believe that disclosure will save her. Idaho has failed her.

Social workers respond to referrals because Idaho has demonstrated its concern for abused, abandoned, and neglected children by creating a mandatory reporting statute. (IC §16-1605). HB 170 suggests that social workers act more like law enforcement officers when responding to a home when their training, education, and goals are different from law enforcement. A social worker's job is not to start a criminal investigation, but to assess the safety of an endangered child who, "shall receive, preferably in his own home, the care, guidance and control that will promote his welfare and the best interest of the state of Idaho...." As it stands now, a social worker who is allowed in the home can assess whether a referral has any merit and offer remedial services; if he cannot inquire and assess, the recourse is to ignore the danger or involve law enforcement in more cases than may be necessary.

The warning language proposed is similar to a *Miranda* warning. However, *Miranda* only applies when there is a criminal investigation, which is not the social worker's role.

Child protection investigations that become legal cases are civil in nature and not all of them turn into criminal investigations and charges. HB 170 will result in more, not less, children being abused or neglected, which cannot be what the Legislature intends.

HB 170 will also ensure that law enforcement becomes more involved in cases where parents do not cooperate because social workers will err on the side of protecting children from possible further harm. The unintended consequences for this proposal will be more law enforcement, not less.

Protecting our most vulnerable citizens from those who would do them harm is of paramount importance. This bill, if passed, would serve to silence a child's cry for help and protect the offending parent/caretaker. This cannot be what Idaho stands for.

3-18-2019



IDAHO STATE LODGE
FRATERNAL ORDER OF POLICE

P.O. Box 1053
Blackfoot, ID 83221

Bryan Lovell
PRESIDENT
surethingpal@gmail.com

Honorable Senator Todd Lakey, Chairman
Senate Judiciary, Rules & Administration
Idaho State Legislature
PO Box 83720
Boise, Idaho 83720

RE: HB 170 Opposition

Dear Chairman Lakey and members of the Senate Judiciary, Rules & Administration Committee:

This letter is in reference to House Bill 170. I want to thank you for your time and consideration of the following points in reference to this bill, and its potential impact on child abuse and sex abuse investigations. I am writing this as the Legislative Chairman of the Idaho Fraternal Order of Police and after much input from Detectives, Investigators and Prosecutors from around the state who are working these cases.

-Miranda was established for Law Enforcement Officers in reference to custodial interviews and interrogation where the individual is either not free to leave (custodial) or does not believe (due to the circumstances of the incident) that they are free to leave. This creates quite a conundrum, as Child Protective Service and Health and Welfare workers are not Law Enforcement Officers and do not have arrest powers, nullifying the need for Miranda.

-After Miranda has been read inappropriately, it makes it extremely difficult for investigators to proceed with formal investigations as Miranda has been given carte blanche to individuals whether there is a reason to believe they have committed a criminal act or not. This is on initial contact with the individuals in reference to a complaint to Child Protective Services and Health and Welfare. The information given to Child Protective Services and Health and Welfare to start looking into complaints or allegations is generally vague and quite often unfounded, so you can see how problematic this is, especially when child victims are at stake.

-This bill limits the ability to conduct thorough investigations and creates roadblocks for Child Protective Services, Health and Welfare and Law Enforcement should a case be founded. Any information (including exculpatory, or able to provide an alibi or identify other potential suspects) could potentially be lost due to the Miranda warning and the implications of being given the Miranda warning (a common belief that the individual being given the warning is a suspect or could face criminal prosecution for any statements made by them).

-In unfounded cases, the case worker must decide (many times based on vague or unfounded allegations) as to whether a child should be placed into foster care (under imminent danger) with little or no corroboration or cooperation from the potential suspects. Based on this scenario, it would be more likely than not, that case workers would err on the side of caution (rather than dismiss the allegations) and if possible, declare the child. The cause and effect of this is;

-more shelter care hearings

-bigger caseloads

-victims not being identified in a timely manner

-If passed, this bill will cost tens of thousands of dollars and hundreds of man hours to teach social workers the intricacies of Miranda in a setting it does not apply. This could lead to violations of Federal Law as it pertains to the protections for children and the access to potentially abused children by social workers. Undoubtedly, there would be a need for more social workers to assist with the increasing case load, causing the overall cost to increase exponentially.

-Parental rights are already on the books. Please see Idaho Code 32-1010. This code covers the rights of parents as it pertains to their children and their responsibilities as parents.

-Ultimately, the passage of this bill will lead to the victimization of children and the hindrance of Law Enforcement and those sworn to protect them from being able to fulfill their duties.

The Idaho Fraternal Order of Police has nearly 2,000 members across the state and we collectively oppose this bill due to the concerns stated above. Thank you for your time and consideration of our concerns about this bill.

Sincerely,

Chris Orvis
Legislative Chairman
Idaho Fraternal Order of Police

Building On A Proud Tradition



Attachment 6

3-18-2019

2-26-19

House Bill H-170 - First Judicial District CASA Program's opposition

The First Judicial District CASA Program conditionally opposes, in the bills current form, House Bill 170 amending of Section 16-1648 of the Idaho Code as proposed for the purpose of adding to existing Idaho code that the Department of Health and Welfare must notify parents or concerned person maintaining the custody and care of a child of their rights to remain silent, to consult an attorney or to have an attorney present during child protection investigations.

Reason for opposition- Such action will severely limit the investigation of child protection cases and put Idaho's vulnerable child victims at further risk of harm or imminent danger. The ability to question parents in child protection cases is critical to determining the events that happened, substantiating alleged abuse and providing factual and informative reports to the child protection judges. Child Protection Courts are sealed proceedings. Parents are included in discussion of their cases and are given opportunity to participate in case plans that provide services to the parents with the goal of increasing the health of the family so that the child can be safely reunified. These efforts require the openness and honesty of the parents. These civil hearings are very different from criminal hearings and parents are given multiple changes to meet the terms of their case plans, with clear goals and timelines to achieve reunification. The success of child protection courts is contingent upon the cooperation and involvement of the parents and their interest and ability to work closely with the Department and other parties.

Contact Person:

KJ Brant

First Judicial District CASA Program, CEO

kj@northidahocasa.org

208-818-3001

Our mission is to recruit, train, and support a diverse network of dedicated Guardian ad Litem CASA volunteers to represent abused and neglected children for the communities we serve.

KJ Brant, CEO
 Don Robinson, President; Sheritt Ben Wolfinger, Vice-President;
 Ashley Lenz, Treasurer; Luke Malek, Secretary;
 Lora Whalen, Ed Morse, Julianne Smith, Emilyanne Hutchins, Jenna Gilliland,
 Jim Faucher, Coco Jensen, Kristy Casley, Dr. Randi Edwards,
 Kris Pereira, Matt Lyman, Julie Amador, Tyrel Stevenson, Dr. Robert Hoover,
 Tara Malek, Steve Childers, Detective Tom Sudol

3-18-2019 -

From: Amanda Roberts <amanda01@cheerful.com>
Sent: Sunday, March 17, 2019 2:10 PM
To: Sharon Pennington
Subject: HB 170 vote no

Please consider this as written testimony to the Senate Judiciary Committee.:

Dear Senate Judiciary Committee - My name is AManda Roberts. I am a Licensed Social Worker who has worked with children and families in varying capacities for the past six years.

I am urging you to vote no on HB 170 – Child Protection Notification/Waiver. HB 170 has the potential to cause needless trauma to families and lead them to incorrectly believe they are the subject of a criminal matter. Additionally, HB 170 can lead to children being left in an unsafe home for a prolonged period of time. The fiscal impact of HB 170 is significantly understated, as it will increase the workload and cost of public defenders, judges, and law enforcement. It will also intensify the strain on a child welfare system that has been consistently impacted by staffing shortages and workload challenges.

Currently, licensed bachelor and master's level social workers in child welfare receive a significant amount of initial and ongoing training in assessment and family-centered practice. Child welfare social workers are experts in engaging families in a trauma-informed manner and linking them to resources to keep a child safe in their home whenever possible. HB 170 will hinder a social worker's effectiveness in the commun

Imagine you are a young child that is being neglected by a caregiver. One day, a social worker comes to your home, builds rapport with your family, and learns about the stress your parents are facing. The social worker links them to community resources and engages your grandmother and a neighbor to come watch you after school and mentor your parents so they can take care of you. With HB 170, the social worker's ability to build a working relationship and impact change will be diminished and increases risk to a vulnerable child. In cases of physical or sexual abuse, law enforcement will already be involved and is tasked advising adults of their Miranda rights. HB 170 will result in a duplication of work amongst government agencies.

I urge you to please let social workers do the jobs they are specifically trained for, and not force bureaucracy onto Idaho families. Vulnerable children in our community will be better served by a no vote on HB 170. I also ask that the impact of this legislation be explored through the Idaho Department of Health and Welfare and stakeholders (i.e. law enforcement, judiciary) to more fully understand the consequences of HB 170.

Sincerely,
Amanda Roberts, LSW

3-18-2019

From: Sadie Heindel <sadieheindel@u.boisestate.edu>
Sent: Friday, March 15, 2019 8:58 PM
To: Senator Todd Lakey; Senator Abby Lee; Sharon Pennington
Subject: HB 170 Testimony

Please consider this as written testimony to the Senate Judiciary Committee.

Dear Senate Judiciary Committee:

My name is Sadie Heindel. I am a resident of District 18. I am a Licensed Social Worker who has interacted with children and families in a child welfare setting for almost two years.

I am urging you to vote no on HB 170 – Child Protection Notification/Waiver. HB 170 has the potential to cause needless trauma to families and lead them to incorrectly believe they are the subject of a criminal matter. Additionally, HB 170 can lead to children being left in an unsafe home for a prolonged period of time. The Idaho Department of Health and Welfare (IDHW) is not a law enforcement agency. An investigation occurs prior to charges being filed; the goal of an investigation is to assess the safety of children. It is the responsibility of law enforcement to read rights and give due process once charges have been filed; this is not a responsibility of the Idaho Department of Health and Welfare. If IDHW workers are tasked with reading rights before entering a home and conducting a safety assessment, families will be hesitant to participate in an assessment out of confusion and fear. IDHW often opens assessments and learns that the family simply needs additional services, such as assistance paying an electric bill or a visit to a food bank. If families don't allow IDHW into their homes, they won't receive these services.

Currently, licensed bachelor and master's level social workers in child welfare receive a significant amount of initial and ongoing training in assessment and family-centered practice. Child welfare social workers are experts in engaging families in a trauma-informed manner and linking them to resources to keep a child safe in their home whenever possible. HB 170 will hinder a social worker's effectiveness in the community.

Imagine you are a parent and your child broke his wrist while playing. You take your child to the doctor and ensure they receive proper medical treatment. The next day, a social worker contacts you stating that somebody called in a referral about the broken wrist. You are able to explain how the injury happened and express that a miscommunication in the emergency room must have led to the call. The social worker is able to quickly assess the situation and disposition the referral as being erroneous. HB 170 would insert a social worker at your door reciting Miranda Rights, causing additional stress on your family, and perhaps even making you more hesitant to seek medical help in the future out of fear of another call to child protection.

Conversely, imagine you are a young child that is being neglected by a caregiver. One day, a social worker comes to your home, builds rapport with your family, and learns about the stress your parents are facing. The social worker links them to community resources and engages your grandmother and a neighbor to come watch you after school and mentor your parents so they can take care of you. With HB 170, the social worker's ability to build a working relationship and impact change will be diminished and increases risk to a vulnerable child.

In cases of physical or sexual abuse, law enforcement will already be involved and is tasked with advising adults of their Miranda rights. HB 170 will result in a duplication of work among government agencies.

The fiscal impact of HB 170 is significantly understated, as it will increase the workload and cost of public defenders, judges, and law enforcement. It will also intensify the strain on a child welfare system that has been consistently impacted by staffing shortages and workload challenges.

I urge you to please let social workers do the jobs they are specifically trained for, and not force bureaucracy onto Idaho families. Vulnerable children in our community will be better served by a no vote on HB 170.

I also ask that the impact of this legislation be explored through the Idaho Department of Health and Welfare and stakeholders (i.e. law enforcement, judiciary) to more fully understand the consequences of HB 170.

Sincerely,
Sadie Heindel, LSW
sadieheindel@u.boisestate.edu

Sharon Pennington

Attachment 9

3-18-2019

From: Breanne Varela <bvarela123@gmail.com>
Sent: Monday, March 18, 2019 9:48 AM
To: Sharon Pennington; Senator Todd Lakey; Senator Abby Lee; Senator Grant Burgoyne; Senator Patti Anne Lodge; Senator Kelly Anthon; sthayne@senate.idaho.gov; Senator Scott Grow; Senator Don Cheatham; mney@senate.idaho.gov; Senator Cherie Buckner-Webb
Subject: Please Vote no to SB 170

Please consider this as written testimony to the Senate Judiciary Committee:

Dear Senate Judiciary Committee,

My name is Breanne Varela. I am a resident of District 19. I am a Licensed Social Worker who has worked with children and families as a social worker for over seven years and worked with families in varying capacities for 20 plus years.

SB 170-This bill, as written, would make working with parents more difficult by blurring the lines between social worker and law enforcement. Social workers are not officers, they do not have the same authority, they are not looking in to a crime when meeting with parents. A child welfare social workers main focus is to ensure a child is safe. If they can remain in the home safe with services, a social workers focus is to provide services in the home, so the child may remain in the home. Law enforcement is involved if the child cannot remain in the home and needs to be declared in imminent danger. If a social worker is reading the parents their rights, "You have the right to remain silent or consult with an attorney..." they sound like law enforcement and the parents are going to assume social workers are looking at them like criminals, blurring the lines. Social workers are not officers of the law.

Many times, throughout the year; social workers rush a child to the hospital and have been told if the child remained in the home a few more hours the child would have died. If the parents immediately deny a social worker to see a child and have to spend hours or days getting a warrant, Idaho will have more child deaths, or a child did not get immediate help and now suffers long term brain damage. The most vulnerable children in Idaho are the ones with no "eyes on them." Meaning they are not attending school, daycare, or any other activity regularly.

Implementing this bill would have social workers spending more time trying to get warrants and taking more time away from judges and prosecutors to review the warrants, and when warrants are served involving multiple officers. This is a lot of tax dollars that would now be used to get warrants to ensure children are safe. This is a lot of time that has gone by without ensuring a child is safe or the parents have not left that state. I am sure most parents would rather meet with the social worker immediately to get the case resolved and not have multiple patrol cars in front of their home being served a warrant.

Idaho's number one priority is to ensure children are safe and their basic needs are being met. Could you go to sleep at night knowing there are concerns for a child's safety and wellbeing? Despite what was said by the opposing views, social workers main goal is to quickly assess the family and if no concerns the social worker closes the case because there are more referrals and more children being reported unsafe. Sometimes family are appreciative because the social worker is able to find resources in the community that they were unaware of and would help their family function more efficiently. Child welfare social worker spend time helping families connect with community resources.

Passing this bill would blur the lines between law enforcement and social workers, put undue stress on the prosecutors and judges, put more stress on the social workers, impact federal funding because time

requirements to see a child would not be met, but most importantly it would impact children's safety everywhere.

Please vote NO on SB 170

Sincerely,

Breanne Varela, LSW

Bvarela123@gmail.com

208-869-2053

3-18-2019

From: Vaughn <vkilleen@idahosheriffs.org>
Sent: Monday, March 18, 2019 10:16 AM
To: Sharon Pennington; Senator Abby Lee; Senator Scott Grow; Senator Don Cheatham; Senator Grant Burgoyne; Senator Kelly Anthon; Senator Mark Nye; Senator Patti Anne Lodge; Senator Steven Thayn; Senator Todd Lakey
Subject: Idaho Sheriffs Association opposes House Bill 170

Honorable Senator Lakey and members of the Senate Judiciary and Rules Committee,

The Idaho Sheriffs Association sends this email in opposition to House Bill 170 for the following reasons.

- House Bill 170 will most likely promote a higher rate of child removals from homes to allow H&W to investigate allegations of abuse because this bill would act as an obstacle to reasonable inquiries on the part of H&W, hence forcing more intrusive action. Child abuse investigations would become more costly and difficult than they already are.
- Traditionally, criminal search and seizure doctrine and criminal admonishment doctrine is set by the courts after determining compliance with the Idaho and U.S. Constitutions. House Bill 170 refers to non-law enforcement persons investigating a process that is civil in nature, yet it mandates a notification of rights form used in criminal police work.
- Often, a social worker will contact the parents or guardian about a complaint not knowing the relationship between the abuse and parent or guardian. They don't know because the complaint hasn't been investigated. Yet, the notification of rights and waiver form that must be presented in writing to a parent or guardian before H&W can speak to them advises them that they are the subject of an investigation of potential child abuse, abandonment, or neglect. This could be erroneous and not factually correct and frighten a person to not cooperate.
- The Bill would require H&W workers to "Mirandize" people in writing even though they may not be a suspect in a criminal offense. This is a much higher standard that is required of a law enforcement officer when investigating a complaint. This begs the question, "Why do we want to make it more difficult to investigate the safety of a child than we do to investigate a murder?"

Thank you for your consideration to vote no on House Bill 170.

Vaughn Killeen
Executive Director
Idaho Sheriffs Association
3100 S. Vista Ave. Ste. 203
Boise, ID 83705
208-287-0001 (O)
208-859-9900 (M)

Thank you, members of the committee, for hearing my testimony on HB170.

Attachment 11

3-18-2019

I want to start by saying that as a former foster youth and current graduate student in the Master of Public Administration program at BSU, I am proud to call home to a state whose citizens and legislators have dedicated a significant amount of time and energy to improving the child welfare system. I truly hope that what I experienced as a child, no child has to experience and already I have seen great strides in our systems that make that more of a possibility.

Idaho's recent unanimous passing of SB1341, the Foster Care Improvement Act, boasted an effort of collaboration from major stakeholders and incorporated research and recommendations from the Office of Performance Evaluations. Among the changes made by this bill was the formulation of a Foster Care Legislative Oversight Committee. As I understand it, this committee will review cases brought forth by an independent citizen review panel, hosted by the Department of Public Health. Cases will be studied, trends noted and qualitative data passed on to the committee to inform future policies surrounding the child welfare system. It has been my understanding that this legislative committee is made up of professionals who have demonstrated a commitment to protecting Idaho's children and families' rights and who, most importantly, are willing to listen to those most effected by child abuse and neglect.

I was put under protective custody when I was three years old. I had bruises on my face and was so emaciated I could barely walk. My mother's boyfriend was severely abusing us and prevented my mother from feeding me. This went on for a period of four to five months. He often hit us with his gun and threatened to kill us both if we left. Fortunately, my mother came out of her drug induced state long enough to recognize, in her words, "If I don't get my baby out of here, she is going to die."

Luckily, I have very few memories from that time but I do have a copy of my records which include a police report and a statement from my three-year-old self describing the details of these events. From what I know to be true now, as adult, about domestic violence and the situations that surround violent child mortality, I honestly believe that if a social worker had shown up at that apartment when all this was going on and read that man his rights, I'd probably be dead right now.

My story and speculation aside, the Idaho state legislature has been both responsive and reactive in its approach to policy change in the interest of abused and neglected children and the rights those children and their families. HB170 is reactive, not supported by data or any of the organizations or institutions that I am aware of who work closely with situations such as these. They are complicated, wicked and sensitive issues that are not to be taken flippantly. Furthermore, HB170 completely undermines the progress and process established in the past two years by this legislature, at the expense of Idaho's taxpayers. If this bill passes it will not only be a great waste but it will hinder the prospect that Idaho could very well be a leader in the fields of prevention and effective response to child abuse and neglect and thus the health and prosperity of our state and country. I urge you to vote no on HB170 and I thank you for your continued attention and dedication to protecting children and families.

Signed,

Elizabeth Norton
norton.laughs@gmail.com

3/16/19

3-18-2019

ACLU of Idaho
PO Box 1897
Boise, ID 83701
(208) 344-9750
www.acluidaho.org



**ACLU Statement of Support
HB 170 Notice of Rights
Before Senate Judiciary and Rules Committee**

The ACLU of Idaho offers the following comments in support of HB 170 – Notice of Rights. The premise of HB 170 is simple – to ensure that any Idahoan engaging with a government official, in this case, a representative from Child Protection Services (CPS) is notified in writing of their constitutional right to remain silent and refuse entry to one's home without a legal court warrant. Knowing your rights when interacting with government is critical to protecting your constitutional rights to privacy and due process so that you can better protect yourself and your family. In the case of CPS investigations, parents should be prepared to assert their rights when questioned by government officials who have the authority to enter their home, question their minor children, and remove children from their parents or custodial guardians.

The need to provide parents and custodial guardians with their rights when engaging with CPS officials is even more critical when analyzing the racial impact of the broader child protection service program, specifically which community groups experience higher rates of family separation. Nationally Black families are more than twice as likely to be investigated by child protection agencies and Indian families are nearly four times as likely to be investigated. Idaho statistics remain just as troubling. Despite Idaho's population being 1.2% Black, Black children make up 2% of children removed for out of home care – a 166% disparity. For the Hispanic community, Idaho is 12.2% Hispanic, yet Hispanic children make up 18% of children removed for out of home care – a 147% disparity. And worse, Idaho is 2% American Indian, yet American Indian children make up 6% of children removed for out of home care – a 300% disparity.

In providing this statement of support for HB 170, the ACLU of Idaho offers no comment on the current functioning of Idaho's CPS programs. Instead, we invite lawmakers to engage with directly impacted children, parents and local stakeholders to assess the systems current needs.

3-18-2019

Sharon Pennington

From: Miste Karlfeldt <miste.karlfeldt@healthfreedomidaho.org>
Sent: Sunday, March 17, 2019 7:45 PM
To: Sharon Pennington
Subject: Please Vote YES ON HB170

Please submit as my written testimony

I ask that you vote in favor of HB 170.

In 2017 I received a phone call that a disabled parents in CDA were having their baby taken from them by CPS. The mother was still in the hospital when the social worker and detective determined that the baby was in imminent danger. HFI got involved and raised awareness about the issue. After 10 days without his mom and dad the judge determined that the baby was taken wrongfully and returned baby Elijah to his loving parents.

This story was widely reported in the news and on social media so parents dealing with CPS got the idea that we would be able to help. I was overwhelmed with stories pouring in through every possible platform that one can use to reach a person. I would ask them if they were willing to share their stories but they would say no for 2 reasons.

1. They were afraid. They didn't want to do anything that would jeopardize the possibility of getting their children back.
1. They were under a gag order. Often times, part of the arrangement of returning children to their families is to silence them so that they can't talk about the details of their case

I will not be there speak on behalf of these parents tomorrow so I would like to submit this as my testimony.

The overwhelming majority of these stories go like this....

A social worker and a police officer show up at the door. The police officer is there for the protection of the social worker but the parents think that they represent an authority to enter the home. The social worker tells the parent that they need entry into the home to be sure that the children are safe. They assure parents that all will go well for them if they just allow them into the home. The parent feels that they need to prove that they have adequate housing for the children and allows them unknowingly giving up their right to unreasonable search and seizure.

At no time does the parent understand that they have the right to say no or have the right to have an attorney present. Their hearts are in their throats, they are sick to their stomach, and they allow the coercion to rule over logical thinking.

On behalf of the parents that are too afraid or are unable to speak up for themselves I ask that you pass this bill. Parents should be given their rights in this stressful situation so that they can make an educated decision about something that can have such a drastic impact on their lives.

As a tax payer, I would like to see the rights defined for the parents to save money. It is only a matter of time before lawsuits are filed because parents make the claim that their rights have been violated.

Thank you very much for taking the time to read this email. I would greatly appreciate a yes vote on HB 170. --

Miste Karlfeldt

Executive Director

cell: (208) 830-3576

www.healthfreedomidaho.org

<https://www.facebook.com/groups/HealthFreedomIdaho/>



AMENDED AGENDA #2
SENATE JUDICIARY & RULES COMMITTEE
1:00 P.M.
Room WW54
Wednesday, March 20, 2019

SUBJECT	DESCRIPTION	PRESENTER
GUBERNATORIAL RE-APPOINTMENT HEARING AND VOTE	Committee Consideration of the Re-Appointment of Dr. Michael D. Johnston to the Sexual Offender Management Board	Dr. Michael D. Johnston, Psychologist
GUBERNATORIAL RE-APPOINTMENT VOTE	Committee Vote on Re-Appointment of Dr. David McClusky to the Idaho State Board of Correction	
MINUTES APPROVAL	Committee Approval of January 21, 2019 Minutes	Senator Thayn
RS27020	Relating to Administrative Rules	Chairman Lakey
H 266	Relating to Sexual Assault Evidence Kits to Provide that certain Information shall be excluded in a Report to Law Enforcement	Representative Melissa Wintrow, Idaho House of Representatives
PAGE RECOGNITION	Recognizing Makenna Moore for Her Service to Senate Judiciary & Rules Committee	Chairman Lakey

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey
Vice Chairman Lee
Sen Lodge
Sen Anthon
Sen Thayn

Sen Grow
Sen Cheatham
Sen Burgoyne
Sen Nye

COMMITTEE SECRETARY

Sharon Pennington
Room: WW48
Phone: 332-1317
email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, March 20, 2019

TIME: 1:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Thayn, Cheatham, and Burgoyne

ABSENT/ EXCUSED: Senators Lodge, Anthon, Grow, and Nye

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the meeting of the Senate Judiciary and Rules Committee (Committee) to order at 1:05 p.m.

GUBERNATORIAL RE-APPOINTMENT HEARING AND VOTE: **Dr. Michael D. Johnston**, having been re-appointed to the Sexual Offender Management Board (Board), spoke to the Committee on speaker phone. **Dr. Johnston** stated that he was a forensic psychologist in private practice for over twenty years. His contribution to the Board is in the area of adult sexual offender treatment and evaluation. He also has expertise in working with juvenile sexual offenders.

DISCUSSION: **Chairman Lakey** asked Dr. Johnston to explain the differences in working with juveniles versus adults. **Dr. Johnston** responded that a psychosexual evaluation is designed to give an estimate on an examinee's risk to offend again. It is broken down into three categories: low, moderate, and high risk. An evaluator looks for things called static risk variables, dynamic variables, and protective variables. The risk variables are the things that have been identified in research that increase the examinee's risk to reoffend and protective variables are things that decrease the risk. **Dr. Johnston** stated the main difference between adults and juveniles is that they have different risk and protective variables. Another big difference is the base rate, which refers to the frequencies which cause those populations to reoffend. Juveniles are much less likely to reoffend than adults.

MOTION: **Vice Chairman Lee** moved to send the Gubernatorial re-appointment of Dr. Michael D. Johnston to the Sexual Offender Management Board to the floor with recommendation that he be confirmed by the Senate. **Senator Cheatham** seconded the motion. The motion passed by **voice vote**.

GUBERNATORIAL RE-APPOINTMENT VOTE: **Senator Thayn** moved to send the Gubernatorial re-appointment of Dr. David McClusky to the Idaho State Board of Correction to the floor with recommendation that he be confirmed by the Senate. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Thayn** moved to approve the Minutes of January 21, 2019. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Lakey passed the gavel to Vice Chairman Lee.

RS 27020 **Chairman Lakey**, introduced **RS 27020**. He indicated that this RS relates to certain administrative rules that are passed every year at the end of the session, and requested it be sent to print for consideration.

MOTION: **Senator Thayn** moved to send **RS 27020** to print. **Senator Cheatham** seconded the motion.

SUBSTITUTE MOTION: **Senator Burgoyne** moved to send **RS 27020** to print and upon receiving a bill number that it be sent to the floor with a **do pass** recommendation. **Senator Cheatham** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Lee passed the gavel to Chairman Lakey.

H 266 **Representative Melissa Wintrow**, District 19, introduced **H 266** and stated that it relates to reporting to law enforcement certain types of injuries when presented at medical facilities. There is a responsibility according to Idaho law that law enforcement be contacted by the medical staff to report that a crime or injury may have occurred. One of the nurses participating in the working group for **H 266**, pointed out that detail. This legislation would enable medical personnel not to report a rape if the process is done anonymously. **Representative Wintrow** reminded the Committee of the anonymous process to collect and preserve a rape kit. Once the victim leaves the facility, the nurses turn the evidence over to law enforcement. The kit will be tagged and numbered in a tracking system so if it needs to be attached to a name later, it can be. This process is a safeguard for someone who might change her mind about coming forward a significant length of time after the incident occurred. **Representative Wintrow** stated she was anxious to get this legislation passed to protect the anonymous rape kit process.

MOTION: **Vice Chairman Lee** moved to send **H 266** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

PAGE RECOGNITION: **Recognizing Makenna Moore for Her Service to Senate Judiciary & Rules Committee.** **Chairman Lakey** announced to the Committee that Ms. Moore was ill today. Alex Knowlton, page, Commerce and Human Resources, filled in for Ms. Moore and he shared her thoughts. Ms. Moore thanked everyone for the opportunity to be here. She quickly found that these "important" people were also very normal people. She learned much about herself during her time at the Capitol – even considering politics for herself. She commented that this was the best time of her life and thanked everyone for the experience.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 1:20 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary

AGENDA
SENATE JUDICIARY & RULES COMMITTEE
9:00 A.M.
Room WW54
Thursday, April 11, 2019

SUBJECT	DESCRIPTION	PRESENTER
RS27195	Adoption of Administrative Rules	Chairman Lakey

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Lakey

Vice Chairman Lee

Sen Lodge

Sen Anthon

Sen Walton(Thayn)

Sen Grow

Sen Cheatham

Sen Burgoyne

Sen Nye

COMMITTEE SECRETARY

Sharon Pennington

Room: WW48

Phone: 332-1317

email: sjud@senate.idaho.gov

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Thursday, April 11, 2019

TIME: 9:00 A.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Lodge, Anthon, Walton(Thayn), Grow, Cheatham, Burgoyne, and Nye(Eva)

ABSENT/ EXCUSED: Senators Thayn and Nye

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the meeting of the Senate Judiciary and Rules Committee (Committee) to order at 9:00 a.m.

RS 27195 **Relating to Administrative Rules, Chairman Lakey** stated **RS 27195** was the standard going home bill and adoption of the rules. The changes are minor, including: Line 14 remove "that term is," Line 17 add "and be of no further force and effect" Line 19 remove "that term is," and Line 27 remove "that term is." Lines 8 and 9 on page two will read "SECTION 6. This act shall be in full force and effect on and after July 1, 2019." **Chairman Lakey** expressed this would give the House the opportunity to sign this proposed legislation adopting the rules as the Legislature has done in previous sessions.

Chairman Lakey explained, after talking with Secretary Novak, due to the late date in the Session, **RS 27195** would be printed and then the Committee members would sign the buckslip.

MOTION: **Senator Burgoyne** moved to print **RS 27195**. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business, **Chairman Lakey** adjourned the meeting at 9:05 a.m.

Senator Lakey
Chair

Sharon Pennington
Secretary